P O U-R O U:

AN

HISTORICAL AND CRITICAL ENQUIRY

INTO THE

PHYSIOLOGY

AND

PATHOLOGY

OF

PARLIAMENTS.

INCLUDING A NEW PLAN FOR A

CONSTITUTIONAL REFORM,

IN TWO PARTS.

RECOMMENDED TO THE SERIOUS PERUSAL OF ALL POLITICAL SOCIETIES, CONVENTIONS, DELEGATES, VOLUNTEERS, ELECTORS AND REPRESENTATIVES.

BY

A FREEHOLDER.

Reliquum eſt ubi nunc eſt reſpublica ibi ſimus potius quam dum illam veterem ſequamur ſimus in NULLA.

D U B L I N:

THOMAS BYRNE, PARLIAMENT-STREET.

M.DCC.LXXXVI.


BRITISH MUSEUM

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ADVERTISEMENT OF THE IRISH EDITOR.

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AD-

ADVERTISEMENT

OF THE

IRISH EDITOR.

THE following ENQUIRY in M. S. was left at my ſhop in Parliament-ſtreet, on the 28th of Auguſt laſt, in the duſk of the evening, by an unknown perſon, who immediately went away without anſwering any queſtions. He was a ſet man, in a bob wig and dark clothes, who had a Taylor's meaſure hanging out of his pocket. It was accompanyed by another ſhort M. S. which, as it appears to contain ſome intereſting memoirs of the author, his life and character; and may be agreeable to our biographical readers, we have taken the advice of a judicious friend to publiſh *verbatim* as it was delivered to us—Both M. S's. have been burned, as directed, as faſt as the ſheets were printed off.

THE author of this Eſſay is of an antient Engliſh family, ſome of whom held reſpectable employments under Queen Elizabeth; but going over to Ireland with the Protector, obtained there a happy eſtabliſhment. However, by an unforeſeen accident, and negligence, his Father was obliged to quit that country in diſtreſſed circumſtances. The greater part of his lands being ſeized by the creditors, were afterwards purchaſed by a perſon

perſon of diſtinction there; to whoſe deſcendant they are now of conſiderable value.

THIS misfortune having happened while his mother was carrying him, her pains coming ſuddenly on, the travellers were obliged to ſtop at Caernarvon in Wales, the ſeat of the antient Britiſh Kings—and which was likewiſe honored by the birth of one of our moſt illuſtrious Engliſh Princes—This firſt circumſtance of his life he always reflected on with pleaſure, as he looked upon it to be, in ſome degree, prophetic of his future loyalty——Loyalty, indeed, is his foible, if I may venture ſuch a term, on ſuch an occaſion. He carryed his enthuſiaſm in this point ſo far, that he is even jocularly accuſed among his friends of having ſpent ſeveral years in tracing back the genealogy of the preſent illuſtrious houſe of Hanover, to *Lewellyn ap Iorwarth the Great*. The virtues and accompliſhments of the renowned princeſs SOPHIA, ſo juſtly ſet forth by Langford, have been always no leſs among his favourite topics.

OF this amiable enthuſiaſm he gave a ſurprizing inſtance at an early period of his life. His parents dying while he was yet in his infancy, he being their only child became intituled to the ſmall remains of a fortune, ſtill ſubject to many incumbrances. In this diſtreſſed ſituation of affairs he was taken to London by his maternal uncle, a dealer in Thames-ſtreet, who had been prevailed upon to take out the guardianſhip, and who being alſo childleſs himſelf was expected to provide handſomely for him. This uncle finding a towardly genius in the youth, put him to Merchant Taylor's School, where he ſoon made a conſiderable progreſs in his ſtudies. Having ſtrayed one day from his ſchool-fellows, they went over the town in ſearch of him—and at length after a tedious purſuit they found him in the midſt of the Royal Exchange, admiring the ſtatues of the Kings, and it was with much difficulty they could prevail upon him to return to his ſtudies.

HE was at the proper time removed from that ſchool to Oxford, where he was put upon the foundation, and would have been appointed a fellow there, but for the inſuperable averſion he always expreſſed againſt *Monkeries*, ſo he uſed to call thoſe celebrated ſeats of academic retirement, "Speculation," he would often ſay, "is the bane of all improvement. Every form "of diſcipline ought to be a *Qualification*, not an *Incapacitation* "for life. *Things*, and not *Words*, are the proper ſtudy of "Man." Yet he for ever after expreſſed a great predilection for

that

that univerſity, where he had the honor to be bred, on account of its acknowleged loyalty, even in the worſt of times!

WHILE at Oxford he is ſaid to have acquired a great facility in the different branches of human learning, and to have been no leſs diſtinguiſhed for an extraordinary genius.—But theſe are points which I leave to be decided by ſuch as take the trouble to peruſe his works.

HE had at this time ſome thoughts of entering into the holy order: A biſhop, who was a friend of the family, having offered to ordain him. Though he had a high reſpect for that order, as will appear in his papers, he ſoon fell of from his intention; by the advice of his friends, who had little intereſt in that line, and had made a true obſervation, that merit was rarely promoted in the church. But whatever were his ſentiments with reſpect to the church as a profeſſion, his attachment to the proteſtand eſtabliſhment was invariable. Although a profeſſed friend to religious liberty, yet he thought that external conformity was a compliance juſtly due to every government. And in this idea he was ſupported by the opinion and practice, as well of Plato and Socrates, as of Chriſt and his Apoſtles.—With regard to the Union ſo much talked of between all ſects, he obſerved with Baron Puffendorff, that ſuch a propoſal never originated from Roman Catholics, that in fact they laught at it in their ſleeve.

AT leaving the univerſity, he took lodgings in Lincoln's-inn, principally for the benefit of the walks, where he indulged his political enthuſiaſm with a profound ſtudy of the Engliſh conſtitution. Here he paſſed ſeveral tranquil years almoſt wholly unobſerved, yet intereſted in every thing that might contribute to the welfare of ſociety, and excite literary curioſity. When AIR-BALLOONS become the faſhion, he made ſome progreſs in conſtructing a balloon, in which he deſigned to have taken the tour of Europe alone, rather to obſerve the varieties of nature, than artificial manners; contrary to the practice of moſt of our travellers, who in general bring home rather follies than improvements.

HIS friends were few but ſelect: to theſe he would occaſionally lay open the ſecrets of a heart no leſs ſuſceptible to love and friendſhip, than it has ever been to the impreſſions of loyalty: Yet ſilence and reſerve were his reputed characteriſtics: So ill are the people qualifyed to judge of real characters!

UPON the death of his uncle he had the ſatisfaction to find himſelf, though not rich, yet wholly independent of the world. "Independence," he was wont to ſay, "is far preferable to "riches." The idea he had been taught to entertain of the uncertain ſtate of Ireland, and of the diſcontents that prevail there, ſoon induced him to croſs the ſea to look after his little property, which was now become entirely clear by the friendly care of his uncle, and the advantage of a long minority—He had, however, other attractions to Ireland, being above all things an enthuſiaſt of nature; he was delighted with the expectation that nature and characters are to be found wholly unſophiſticated in that country, from its late arrival at a ſtate of civilization; and in this expectation he confeſſed he was not wholly diſappointed.

DURING his reſidence there he principally remained at his country manſion. He uſed to ſay that the late encreaſe of metropoliſes was the deſolation of theſe kingdoms——An inconvenience of which Queen Elizabeth and King James I. were ſo ſenſible, that they exerted all their authority to ſuppreſs it in their time. Whenever he viſited Dublin he chiefly lodged in Cook-ſtreet, as well for its proximity to the law courts, which were his favourite amuſement, as for another fanciful reaſon that that ſtreet by it low ſituation muſt be exempt from the uſual uncertainty of an Iriſh atmoſphere. He alſo paid a ſingular attention to the proceedings of Parliament.

As to his political principles: he was a ſtaunch friend to every mode of conſtitutional reform. Lord Charlemont's anſwer to the Belfaſt addreſs did not eſcape his notice; on the contrary, it met with his higheſt approbation. And though he ſeemed to think, that Parliament had loſt much of their original dignity, and was himſelf perhaps too particular in examining the qualifications of candidates; yet he always allowed that the uniform reſpectability of the late Sir George Savile in England, and the rank, honorable ſervices, integrity and abilities of ſome profeſſed patriots in Ireland were ſuch, as muſt ſtamp a ſanction upon any ſociety with whom they were united. Though he was a true patriot, his patriotiſm was ever ſubordinate to his loyalty. He always conſidered the abuſes any nation ſuffered under a tolerable government, as far leſs oppreſſive than a civil war would be—for this reaſon he held demagogues in ſuch abhorrence, that latterly when he became a Valetudinarian, he uſed to ſay, that the worſt diſorders he apprehended was the *Demomaniphobia*, 'the fear of popular commotions'—While at the ſame time

time he rightly judged that the abuſe of parliamentary previleges is the originating ſource of the worſt diſorders in our Senate.

THE reader will doubtleſs obſerve, that our author has perpetually quoted the firſt Edition of Hume's Hiſtory, as it came out in detached diviſions in preference to all the ſubſequent ones: But the reaſon, perheps, may not be equally obvious. This I ſuppoſe to be what I have often heard him remark, that the original edition of that hiſtory abounded with many juſt and curious remarks, that were either ſuppreſſed or altered for the worſe in the later ones. With regard to the Eſſay itſelf—Far be it from me to add any thing to its authorities or arguments, they can beſt ſpeak for themſelves. Nor will I yet aſſert that it is wholly free from his favorite enthuſiaſm. But I am informed by ſome judicious friends, that the plan of reform he has ſet forth, would, if realized, eſtabliſh upon the firmeſt baſis the true proſperity of theſe kingdoms; that it agrees in its moſt eſſential parts with the ſentiments of all the wiſeſt and moſt moderate men of all ages; and with all of every denomination with whom it is an honor to coaleſce. Sentiments of a very different kind may be the faſhion of the preſent time: But whatever our violent reformers may think, we are ready to reply in the words of a great author, ERROR AND ANARCHY LAST BUT FOR A DAY, WHILE TRUTH AND ORDER ARE ETERNAL.

As to his perſon: he was a tall, ſpare, middle-aged man, of an aduſt and bilious complexion; a high forehead, an aquiline noſe, arched eye-brows, that almoſt met. He had ſpeculation in his eye, held his head erect, walked quick, and often was obſerved to ſtop and ſeem to look about him, while at the ſame time he could not be perceived to have diſtinguiſhed any object. He was commonly calm, but on ſlight occaſions addicted to ſudden fits of paſſion, at which time the veins of his forehead would ſwell, his eyes ſparkle, his face redden, and he would be in danger of choaking if his friends had not the precaution to looſe his cravat, a freedom which he always bore patiently. He is ſaid to have been a perſon of uncommon vivacity in his youth, but from the loſs of friends and a variety of diſappointments, has been ſo much addicted to thoughtfulneſs and ſolitude, as to be thought *diſtrait* by ignorant ſpectators. But however excuſable his *mental* abſences may be, his friends have a juſt right to complain of his corporeal ones, as he has of late *bodily* abſented himſelf from his lodgings; nor is it even conjectured what can be become of him. It is feared he may have been kidnapped unknown to himſelf in one of his reveries by ſome intereſted perſon, who deſigns to make a ſhow of him for his rare endowments. The following

eſſay being ſince found on his table; it is conjectured that he was juſt preparing it for the preſs at the time of his ſudden diſappearance. His friends hereby offer a conſiderable reward to any perſon that can give information about him———

And the publiſher will be thankful for any original papers, as it is ſuppoſed he may have left many.

Just as I had written the above, the following particulars occurred, which ought not to be wholly overlooked in this advertiſement. I was ſitting behind my counter with the MSS open before me, when a certain perſon entered the ſhop, whom I have ſometimes condeſcended to invite to my table, both as a ſerviceable author and a judicious critic. Seeing me thus engaged, he took the liberty of a friend to aſk me what new thing engaged my thoughts. As ſoon as I communicated to him the general title, being himſelf a good hand both at a title and news-paper paragraph, 'why yes,' he cryed, 'this is a popular 'ſubject—it may do—if it is well *puffed*.' Encouraged by this ſo flattering introduction, I put the whole into his hand, which, when he had looked over with a conſiderable degree of attention—'Your 'author is wrong,' ſaid he, 'he muſt be wrong, in 'the æra he aſſigns for the firſt introduction of Com-'mons to Parliament.'—I anſwered, 'the author 'might yet be right as that is at beſt a diſputed point' —No certainly replied he, with an authoritive voice, it has been decided otherwiſe *ex cathedra*, by a celebrated French author a polite Abbé—the Abbé Milot —I aſked, 'upon what authority that Abbé had 'preſumed to decide upon ſo doubtful a queſtion?' He acknowledged 'that he had not produced any 'voucher'—As I perceived that the argument was now at an end—I contented myſelf with obſerving upon

upon the preſumption of thoſe foreigners who take upon themſelves to ſettle what has been left undetermined by natives, and reſolved for my own part to adhere to the account of Parliaments given in this book—at leaſt until I am furniſhed with a better.

☞ *As to any errors that may be found in the Work before us, doubtleſs it would have appeared more complete, had the author been perſonally preſent to correct it.*

POU-ROU:

PART THE FIRST

OF THE

PHYSIOLOGY

OF

PARLIAMENTS.

ESTO PERPETUA!

POUR-ROU:

PART THE FIRST

OF

PHYSIOLOGY

FOR

PARLIAMENTS.

THE

AUTHOR's APPARATUS TO THE FOLLOWING ESSAY.

IT has been the juſt complaint of Socrates, recorded by Xenophon, "that whereas every inſignificant trade was allowed to require an inſtitution, the ſcience of government alone ſhould be left open to every fortuitous poacher." Mem. l. iv.

WE learn from one of St. Paul's Epiſtles, that there were at Theſſalonica in his days, a very numerous ſect of empirics, whom he thought proper to diſtinguiſh by the name of BUSY-BODIES.

The whole employment of this ſect ſeems to have been the regulation of the ſtate, to the utter neglect of their own private affairs. It is to theſe the Apoſtle addreſſes that excellent, though plain piece of advice, "that with quietneſs they work and eat their own bread."

The ſame unaccountable frenzy poſſeſſed the fanatics in King Charles's time, to the almoſt total ſubverſion of our eſtabliſhed religion and government.

As this public-ſpirited order of men ſeem once more to have awakened from their trance of a century, forgetful of the former wounds of their country, in defiance of the holy precept of St. Paul, and the ſage admonition of Socrates, and regardleſs of the terror they cauſe to his Majeſty's peaceable ſubjects, I think it high time for all thoſe who reſpect the public peace, to

try

try the antiquity of their pretenſion. ——The oldeſt memorials extant, are confeſſedly thoſe of Moſes; there we read indeed of the Ruler of the People, but after the ſtricteſt ſearch, I can find no mention of the People as Rulers. "Who are Lords over us?" ſaid the rebellious Jews. What is this but the general addreſs of all demagogues to their adherents?

The riches of a King are in the multitude of his ſubjects. If the whole nation are to be lords, where will they find ſubjects? And how poor muſt ſuch a nation be?

It has been the celebrated encomium of antient Rome, that all the people were Kings, and all the Senators Gods. As I am a profeſſed admirer of antient Rome, I will not attempt to invalidate the compliment. But methinks it is no little diſcredit to the wiſdom of thoſe Gods, as well as no ſmall inconvenience to the ſtate, that they did not

contrive

contrive to keep their Kings in better order.

HOWEVER, leſt the precedents I have brought ſhould be arraigned as equivocal, I hope it will be no offence to the *ſerene Majeſty of the People*, if I endeavour to aſcertain their claim, by the teſt of truth and reaſon. For which purpoſe, I ſhall enquire into the foundation of democratical power in general, and in particular the riſe and progreſs of thoſe Parliaments which, though the ſole ground of their pretenſion, they are at preſent ſo deſirous to overturn. And in the courſe of this Enquiry, I ſhall ſhew the true perfection of Parliaments, with their real or pretended defects; and the only conſtitutional and effectual means of remedying the one, or of reſtoring the other. I am ſenſible, that to recal the people to calm reaſon, has been at all times an invidious and dangerous attempt. But when I conſider that the

The Author's Deſign.

Anddefence of himſelf.

Saviour

Saviour of Men himſelf, experienced the worſt requital; that Socrates could not eſcape hemlock—that thoſe Kings who were the beſt friends of the people, have ſeldom been ſafe from their rage—I fortify myſelf with Seneca, and the excellent Marcus Antoninus, "*Neminem virtuti magis eſſe devotam quam qui boni viri famam perdidit ne conſcientiam perderet.*" M. Ant. l. xi. Sen. Ep. 81.

To conclude. I expect the attention of the candid, and hope for the approbation of the judicious.——To thoſe of a diſpoſition more mercurial, I ſhall be content to addreſs the words of Brutus, "Hear me for my cauſe, and be SILENT that you may hear."

*** For the meaning of the word POU-ROU, which occurs in the title, as I do not think it expedient to damp the public curioſity too ſoon, I ſhall beg leave to refer to a Poſtſcript.

POU-ROU.

I.

MEN fly to the ſalutary reſtraints of political, to ſkreen themſelves from the horrors of natural liberty. Such is the origin and object of all SOCIETY. As they are intended to be gregarious animals, like all others of the ſame kind, they eaſily incline to follow a LEADER.—This Leader or Duke muſt be ſome great Perſonage whom they have been accuſtomed to look up to for his acknowledged wiſdom, ability, and virtue. Of this ſort were the Dukes of EDOM, &c. So VIRGIL ſings:

Origin of Society. Inſt 1. 3. 1.

——— *Sævit animis ignobile vulgus.*
Tum pietate gravem ac meritis ſi forte virum quem
Conſpexere ſilent arrectiſque auribus adſtant
Ille regit dictis animos et pectora mulcet.

But

But as it was eſſential to the permanent peace of the ſtate, that this dignity ſhould be hereditary, and the requiſite qualifications for ſuch an office do not always run in deſcent, it became the firſt care of this provident Leader, to appoint a ſtanding COUNCIL for the infant nation, ſome of whom might be entitled by birth, others by their approved wiſdom and piety, at the election of the grandees and people. Such is the origin of all GOVERNMENT. It is thus every well-ordered community ought to conſiſt of a *Heretogh* as Chief, of the *primores Populi*, as a ſenate, and of the *populumque tributim* as ſubjects, not as *Dictators*.

Of Government.

II.

IT was the celebrated remark of Tacitus upon the Romans of his time, *Nec totam libertatem ferre poſſunt nec totam ſervitutem.* This may be conſidered as a general aphoriſm with reſpect to political manners, no leſs ſuitable

Abſolute Liberty undeſirable.

able to many other nations than to those for whom it was originally designed; and perhaps to no other more applicable than to our own. Nor is this the only instance of conformity that may be observed between us and that celebrated people. A certain severity of manners and turn for deep speculation, which has been of old attributed to the latter, and perhaps gave rise to the above observation, is alike characteristic of both.—An observation thus derived from fluctuating manners, it has been the study of later speculatists to fix upon some less variable principle. The public have readily embraced their opinions, as far as they were found favourable to themselves. They even gave them credit for more than they required. Whatever praises they justly bestow on a Mixt government, interested demagogues have applied to a Democracy. An estate, however, as far more dangerous than that of savage nature, as

Ad severitatem, pati. Cic.

it poſſeſſes ſuperior capabilities of miſchief!

III.

A mixt Government.

IT ſeems to be the concluſion of the principal writers on Polity, that a mixt government is moſt agreeable to nature, becauſe it is agreeable to reaſon. I have often thought, read and converſed on this ſubject, and the more I hear, read and conſider, I am the more inclined to regard this notion as a meer chimera, that either can never be realized in the preſent ſituation of things; or even if it were poſſible, were yet wholly undeſirable.

IV.

Founded only on Speculation. Cic. de Rep. l. 2. Polyb. l. 6.

CICERO and Polybius among the antients, as well as innumerable moderns, have agreed in aſſerting That conſtitution to be the beſt, which is compoſed of three forms, *Regni, optimatium & Populi imperio.* The former of theſe may be looked upon as active, no leſs than ſpeculative men. But if we recollect

that

that there is no perſon who has leſs curioſity about a puppet-ſhew than he that conducts it, or knows more of its imperfections than he who is behind the ſcenes, we will eaſily be induced to believe, that what the great antients held in moſt admiration, was what in truth they had the leaſt experience of. As to the moderns who have applied their thoughts to this ſubject, they are either meer ſpeculatiſts, or if they have been intruſted with the ſecret of affairs, have rarely approved in practice, what they admitted in ſpeculation. And in this number I reckon Dr. Swift, whoſe Eſſay upon the conteſts in Athens and Rome, may illuſtrate the truth of my aſſertion; which muſt ſtill more manifeſtly appear from conſidering the different ages wherein thoſe authors wrote. Cicero and Polybius are known to have flouriſhed under the Commonwealth of Rome, at a time when all orders of men were beginning to perceive that the kingly power alone could

allay

allay the diſorders of the ſtate: a ſalutary change! which Their theories of government were purpoſely calculated to recommend. Dr. Swift publiſhed his Eſſay during the reign of King William, under the prevalence of thoſe licentious manners which had been ſo lately introduced to England by King Charles II. as an antidote to that fanaticiſm which he had found at once ſo fatal to his family and to the ſtate.—A licentiouſneſs which though the Royal proclamation at that time failed to repreſs, yet might have been eaſily prevented by a prerogative leſs limited; and ſuch was the expedient propoſed by that author. So that it ſufficiently appears that however theſe great writers, in compliance with the humour of the times, might have appeared to favour this mixt form of government, they were in truth the panegyriſts of a limited monarchy, rather than of democratical power.

Its advocates friends to a limited monarchy.

THIS

V.

THIS idea of theirs, politicians have attempted to illuſtrate by a BALLANCE, the property of which is to counterpoiſe ſuch things as are placed in the oppoſite ſcales. The ballance itſelf to be ſupported by a third power. This alluſion of theirs is indeed very appoſite but not to the purpoſe they imagine. They ſuppoſe the perfection of government to conſiſt in an *æquilibrium*. What is this but to reduce the whole to one power, and that power the executive one? ſince by a well-known rule in mechanics, equal and contrary motions muſt effectually deſtroy each other. On the other hand, when unequal and contrary powers act upon the ballance, as they are in conſtant and neceſſary oppoſition, what muſt be their final effect but to reduce ſociety to that ſtate of warfare which was Hobbes's idea of nature; or to allow the addition of the third power to ſupply the deficient ſcale. What is this but to take

The Ballance inapplicable.

Swift, vol. xix, 299. vol. i, p. 7. 18mo.

the

the executive part out of its place to maintain their imaginary ballance? And when the ſupporting power is removed from its place, what will become of their fantaſtic ſcale? I will, however, admit, that were all men alike reconciled to their proper place in ſociety, and actuated only by *vis inertiæ* like weights in the oppoſite ſcales, the alluſion might be the more applicable. But who is there in the preſent frame of the world, that peaceably acquieſces in the appointment of his Maker? Who is there that has much, and would not have more? Who that has little is content with that little? Who is there that loves not deceitful weights? In ſuch a confuſion of jarring intereſts, how fatal muſt ſuch an experiment prove? Can it be expected that thoſe who neglect the nobleſt truths of religion, and the peace of well-ordered ſociety, will be eaſier brought to obey the light arrangement of a ballance? It is thus theſe ſpeculative politicians

are

are buried in a worſe gulf than that they ſo ardently wiſh to avoid, *Incidit in Scyllam, &c.* It is thus they ſubmit to a *real* tyranny, while they are ſtudious to guard againſt its *ſhadow*. It is from this miſapplied alluſion, they have derived their idea of thoſe antient eſtabliſhments, upon which they pretend to erect our modern ones.

VI.

I THINK I ſhall eaſily make it appear in the courſe of this enquiry, that in fact, none of thoſe antient States, however they might vainly pretend to it, were poſſeſſed of that boaſted compoſition, or that if ever they attempted to realize it, they were only the leſs happy: That however it might be founded in reaſon, it is by no means conſonant to nature: That men are born to be ſubject to a ſuperior; and that under ſuch a neceſſity, the only thing that remains for them to decide, is, whether they will chuſe to be ſubject to the *One* or the *Many*? A queſtion

Not ſupported by Hiſtory.

this

this, that however it may exercise ingenuity and opinion to resolve, I will yet be bold to affirm, ought to be without hesitation determined in favour of the former. But unluckily for the vain schemes of projectors, the decision does not now remain to be made. Our constitution is already settled upon a basis too firm for the turbulence of speculatists to remove.

VII.

Not originated from Nature.

For as to that pretended equality of nature, upon which they expect to establish a *popular* power, how little weight ought it to have in a question of such importance? If we appeal to nature at large, how ill does this idea we have formed of the equality of nature correspond to the whole analogy of nature? For if we ascend to the highest pinnacle of nature, even to the throne of God, how will we find the whole chain of Being to descend from thence in a gradual subordination.

How

How will we find the different hierarchies of angels marſhalled according to their ranks allotted by the great King? How is the ſame ſubordination preſerved in the ſtars, one ſtar differing from another ſtar in brightneſs? How is all Heaven but one glorious *kingdom*, for the coming of which Chriſtians are taught to pray? What are the elect of God, but the *ſubjects* of this kingdom, where they will be arranged in their due degrees, under thoſe who ſhall hereafter attend their glorified King, judging the twelve tribes of Iſrael? With Him, from the beginning, ſate WISDOM His COUNCIL of State, when he ſaid, 'Let us make Man in our own image.' Should it have originally employed the *wiſdom* of God to *create* man, and ſhall it not equally require the great *councils* of Princes to *govern* them? And I dwell the longer on this ſubject, becauſe I am aſſured that it is the occult deſign of theſe reformers, whatever modera-

tion ſome may pretend, to overturn the Majeſty of Kings, and to render their Councils contemptible.

All this dread Order break for whom? For Thee?
Vile worm!——O madneſs! pride! impiety!

VIII.

Such is the great chain of ſubordination deſcribed by Homer. Nor does this inſtructive chain terminate here. If we deſcend 'a little lower than the angels,' even to MAN himſelf, where ſhall we find an example of this pretended equality? How do they all differ in feature, in ſize, in knowledge, in virtue, in natural and artificial endowments!—If we examine the inferior claſſes of nature, how are all the different claſſes of animals ſuppoſed to be ſubject to Kings? Is not the lion the King of beaſts, the eagle the Tyrant of birds? Is not the admirable polity of the bees conducted by a Queen? Would not the ſame equality of nature that prevails in horſes as well as in men, prevent one horſe from being eternally confined

confined to a mill, while another is adorning a pageant of ſtate? Why ſhould an aſs be conſidered in one country as a contemptible animal, in another as the proper vehicle of Kings? How greatly then had the Aſs in Æſop the advantage of our modern politicians, who declined intermeddling in queſtions of government, ſince whoever ſhould bear ſway, he muſt be obliged to carry the panniers?-----I am well aware, that a want of ſuch wiſdom in our Coffee-houſe politicians, is the real cauſe of their being ſo much addicted to political ſpeculations. They are grown weary of carrying the *panniers*, and have not the good ſenſe to reflect, that they are qualified for nothing elſe, As they pretend to be judges of Religion as well as Government, why do they not remember, that ſome veſſels are ordained to honour, and others to diſhonour, and that the Potter that hath originally deſigned Them to be '*waſh-pots*,' hath the power over his own

own clay? I will not, however, venture to ſay, that it were a ſalutary reſtraint upon the political fury of theſe times, to revive the obſolete ſtatute of Charles IId, for ſhutting up Coffee-houſes. On the contrary, I think, that the larger ſpace is allowed to theſe gentlemen for the diſplay of their *impetuous* abilities, the ſtate has the leſs danger to apprehend from an *exploſion*. But it is highly neceſſary, that the cure ſhould accompany the diſeaſe; and no leſs the duty of every individual, who regards the peace of ſociety, to contribute his aſſiſtance to the cure of a diſeaſe ſo extenſively dangerous. I hope, therefore, that the *recipe* I here offer, will be duly taken as a cooling emulſion for the ferment of the times, and that it will not fail of its effect.—But theſe reaſoners ſeem ſtill determined to reaſon on, let what will be the reſult, and are like the generality of thoſe ſagacious *beaſts* aforeſaid, not eaſily to be driven out of their own way. In condeſcen-

tion

tion to the level of ſuch intellects, I will now proceed to *reaſon* with them a little, and enquire which is the beſt choice to make; no other, as I have already obſerved, being literally in our option, the tyranny of One, or that of the Many——And I ſhall found my compariſon on two obſervations, which correſpond to the truth of hiſtory.

IX.

Monarchy and

FIRST, The tyranny of One hath this advantage, that it cannot extend to All: That ſome may, by their conſequence, be ſafe from it; (an objection that was abſurdly made to the mild laws of Solon;) and others, by their inſignificance, be remote from its terrors; according to the juſt remark of Goldſmith,

The biting axe, the agonizing wheel,
Luke's iron crown, and Damien's bed of ſteel,
To men remote from power, but rarely known,
Leave reaſon, faith, and conſcience all our own.

Whenever the Roman provinces had cauſe to complain, it was owing leſs even to their worſt Emperors, than to their

their deputed Governors, who were taken out of the Many, and obtained that power by popular intrigue, which they afterwards abuſed, to the deſtruction of the People. The modern Turks, and others under a ſimilar government, ſuffer the ſame inconvenience from ſimilar cauſes, and have always been obliged to apply for their *dernier* redreſs to the One.

X.

Τυραννὶς, Rex, Suid.

SECONDLY, The Tyranny of One may be oftentimes GOOD; a circumſtance implied in its very name. However ignorance and prejudice may conceive otherwiſe, That name was at firſt perfectly innocent, expreſſive alone of the *executive* power. If it has long ſince ceaſed to be ſo, it is owing as much to the unrulineſs of the Many, as to the miſ-rule of the One. An aſſertion abundantly ſupported by hiſtory. If we are content to derive Royal from Parental Authority, how mild muſt it

Temple Diſc. on Gov. &c.

naturally

naturally be? The first Kings of the world were worshipped as Gods—why but for their benefits to men? What were a *Theseus*, a *Numa*, an *Augustus*, a *Titus*, a *Trajan*, a *Nerva*, an *Aurelius*, an *Antoninus*, an *Alphonsus the Wise*, an *Alfred*, a *Henry* IVth, and a *Charles the Good*, but Kings like to the Gods? Yet some of these became martyrs to the violence of the people. If it should at any time happen, that the One is untrue to the interests of the People, it is generally by the persuasion or threats of the Many. It was by such influence Pilate was impelled to condemn our Saviour; it was by such influence Augustus and his Successors were prevented from inrolling him among the Gods of Rome! If Felix, or Festus, had been equally under influence, they would have equally condemned St. Paul. So small are the relative evils of tyranny, a truth admitted *even* by Locke!

Suid. Zosim. 4. August. de Civ. d. l.

On Gov. p. 2, § 205.

On

XI.

Democracy compared.

ON the other hand, if we ſuppoſe the Many to be poſſeſſed of power, let us ſee what will be the conſequence: An *Ariſtides* will be impeached for his juſtice, a *Pericles* for his magnificence, a *Miltiades* for his ſucceſs in war, a *Phocion* for his merit in procuring an honourable peace: A *Virginius Rufus* will be reviled, a *Rutilius* will be baniſhed, a *De Witt* will be aſſaſſinated, a *Charles* Iſt will loſe his head. Nor were the temples of the Gods more ſafe from their rage, than *their* images here upon earth.

Swift, Hen. 1. p. 298. vol. i, p. 38.

XII.

LET us mark the progreſs of this power. The many-headed *monſter* too blind to conduct itſelf, will beled by popular ORATORS who will firſt amuſe them, and finally betray them; even *Demoſthenes* was at length prevailed upon to *Phillippize*. What were the long-winded harangues

harangues of Cromwell, but pandars to the *Philip* within his breast? Or if these popular Leaders should cease to obey them in their wildest extremes, they will at length fall a sacrifice to their vengeance. Such was the fate of the orators at Argos, Polyb. l. 15.

XIII.

Let us behold the end of this power: The most violent tyranny of the One, or the still worse anarchy of the Many. Witness all antient and modern history. Witness a *Hippias*, and a *Dionysius*! Witness the United Provinces of *Holland*, now hastening rapidly to their decline, having forgot their due respect to the One, by whose power they possessed their liberty. Witness the Thirteen Colonies of *America*, now the theatre of fearful confusion! Witness the Decemvirs of *Rome*! The three thousand tyrants of *Athens*! To sum up all miseries in one word, the *Rump* Parliament of England! Hume, 1, Append. 1. Swift, 1, 6. Dion. Hal, l. 10. Xen. Hist, l. 2.

land! What terror is there in a ſolitary tyrant to compare to this loſt ſtate of a nation? Whereto ſhall we liken it but the Hell of Milton?

> Regions of ſorrow, doleful ſhades where peace
> And reſt can never dwell. Hope never comes
> That comes to all!

When this rage of politics poſſeſſes the multitude, how does it Out-Herod all the controverſies of all His devils? What, are 'fate, free-will, fore-knowledge abſolute' to the political queſtions that excite this domineering frenzy of a nation? Why but to eſtabliſh the tyranny of the Many did King Charles I. loſe his head? And what was its iſſue but the moſt violent deſpotiſm? The Reformers of that day were heartily ſick of the work of their own hands; few of them ſurvived to tell the news in Gath. The tyrant himſelf poured out his ſoul in an agony of fear and remorſe. But his tyranny was by no means ſo formidable as his Common-

Common-wealth would have been. The nation were poſſeſſed of a proſperity at home, and a conſequence abroad, unknown to the proudeſt Republics!

XIV.

IT may be obſerved that in all this Diſcourſe, I am ſilent about Ariſtocracies. The People have no right to complain of Them, whatever the Kings may have had, ſince to them we of theſe nations in a great meaſure owe our rights. Or if they were at any time a curſe, their power has been ſo conſiderably diminiſhed, that it has long ſince ceaſed to be dangerous. At worſt they can be but a *puny* curſe to a nation. An Ariſtocracy to ſay the moſt, is but a *Cerberus* or a *Geryon*. The many-headed monſter——the many-headed monſter, I repeat it, is a 'hundred-handed *Gyas*,' formidable even to the Throne of Jove! Ariſtocracy and

XV.

SUCH calamities as theſe can never be apprehended under a Kingly government,

vernment, at leaſt in the preſent enlightened ſtate of the world. The examples of antient and modern hiſtory are a ſufficient check upon the enormities of Kings, by ſhewing how fatal their vices and thirſt of power have generally been to themſelves, and even by thoſe very inſtruments which they had fondly employed to maintain it. Let the Roman Emperors of old—let James the IId. in a later age, be a ſtanding *memento* to Kings how little reliance they ought to have upon a *mercenary* army. If the army did not oppoſe the violence of Cromwell, it was only becauſe the nation had acquieſced before.

Monarchy compared.

I have ſaid that Ariſtocracies are a light evil. I now aſſert that Kingly Power is a far lighter one. The

Quicquid delirant reges plectuntur Achivi,

is an evil indeed, but by no means of the firſt magnitude. The worſt evil that can befal a nation, I repeat it again, is when the People will be Kings Themſelves. This is a truth as old as Homer,

Homer,

Ουχ' αγαδιν πολυκοιρανιη.

If ever Kings are a curſe, it is owing either to a miſtaken favoritiſm, or to the intereſted advice of evil counſellors who are of the Many, and whoſe councils have always proved moſt fatal to the King himſelf. Sparta or its Kings, before they had entruſted too great a power to the hands of the *Ephori*, were never ſubject to the worſt horrors of Tyranny. This ſpirit of Tyranny in the Many, is a ſtubborn ſpirit, like that in the Goſpel—its name is *Legion*—it is not to be ejected but by *Faſting and Prayer*.

XVI.

I HAVE ſufficiently ſhewn, from the analogy of all nature, how falſe are the ideas of theſe *reaſoners* in favour of mixt or popular government. For it may be laid down as a maxim, that whatever the generality of them pretend to the contrary, thoſe who are moſt violent in praiſe of the Former, in reality alone intend the Latter.

I HAVE

XVII.

The first Government,

I HAVE again to add from the concurrent teſtimony of all the oldeſt hiſtories, that Kingly Power, as it is the ſimpleſt and moſt natural, ſo it was the firſt form of government eſtabliſhed in the world; and that all foreign additions to it, as they were at firſt the invention of intereſted and ſpeculative reaſoners, or at beſt the temporary offſpring of convenience, caprice, or neceſſity, ſo they will be found in the end, alike dangerous to the Rulers and to the People. So juſt was the deciſion of *Plato*, that if all men were as good as they ought, the conteſt would not be as it is now, who ſhould be Governors of the State, but who ſhould *not* be ſo? A ſentence which had ſuch an effect upon his countrymen, that *Socrates* is introduced as chiding a perſon whom he thought particularly qualified for public affairs, for abſenting himſelf from the care of the ſtate. To the prevalence of the ſame diſintereſted

reſted maxim in our wiſe anceſtors, it is to be alone imputed, that the honeſt Senators of thoſe days required to be paid by the Public for their attendance on its concerns; ſo little idea was then entertained of ſetting up a ſeparate intereſt in oppoſition to that of the State. What a ſtrange reverſe have we lived to ſee, that the Senators ſhould pay the People. What elſe could we expect from ſuch a proceeding, but what we have ſince fatally found, that they would embrace the earlieſt opportunity to repay themſelves?—So properly are the two kinds of Venality blended by the Poet,

Venalis populus venali Curia Patrum.

XVIII.

As the firſt Kings were the accompliſhed civilizers of the world, who are therefore hieroglyphically celebrated as great *hunters* and deſtroyers of monſters; ſo their firſt Counſellors were only thoſe who came next to them in the ſame accompliſhments. And after

Compoſed of both.

property

property began to be aſcertained, thoſe who poſſeſſed the moſt extenſive property, from their ſuperior ſtake in the ſtate, had a natural claim to the ſecond place of power. Theſe became the great Council of the ſtate, and ſuch was the ſource and whole extent of every original government, who as they had at firſt, by force or compact ſubmitted to the King, neceſſarily muſt derive from him whatever power they poſſeſſed. It was thus the antient kingdoms of the world were conſtituted. Such is the ſtanding council in the great empires of the Eaſt, the true fountain of Gothic polity. Such are the modern Gothic eſtabliſhments.

XIX.

We ſhall now proceed to examine how far all this applies to the government of theſe kingdoms, and how erroneouſly They reaſon who expect to derive a remedy for the real or pretended abuſes of government, from any of thoſe means which they have vainly pro-

propoſed from it, or from any other powers but THE KING ALONE.

XX.

AND in this reſearch, it is not my deſign to go into the confuſed and fabulous times of Engliſh hiſtory. But even of thoſe times it is recorded, that ARTHUR had his *Knights of the round Table*, who were appointed by him to be the Great Council in his day, and the miniſters of his government; a practice which he doubtleſs derived from the old Gothic conſtitutions.

Illuſtrated from the Britiſh

Galf. Mon, l. 1, c. 1.

XXI.

THIS form of government they poſſeſſed in common with all the northern nations of Europe. Juſtly tenacious as they were of that ſpirit of liberty, which had rendered them ſuperior to the empire of Rome, they yet had the good ſenſe to perceive, that it was their perfect obedience to their Chiefs that procured for them theſe glorious ſucceſſes, and that their boaſted liberty

Hume, 1. Append. 1.

could by no means be preſerved, but by an implicit adherence to that ſubordination which had been the great inſtrument of their happineſs. They therefore paid a profound reſpect to their hereditary Monarch, who had alſo the privilege of appointing their great Council. A Council conſiſting always of the firſt perſonages of the ſtate, which was deſigned only to be ſubordinate to the Prince, and perfectly free from the controul of the People.

Tac. de Mor. Ger. c. 11.

XXII.

THE ſame Council prevailed under the ſeveral realms of the Saxon Heptarchy. We find it in the reigns of Ina, King of the Weſt Saxons, Offa King of the Mercians, and Ethelbert King of the Saxons. Its buſineſs was, according to Fleta, to ſettle the affairs of the kingdom, 'to make new laws, and amend the old.' It was known by the different names of *michelſynot*, *michelgemote* and *wittanegemot*, the

L. 2. c. 2.

council

council of *grandees* or *witsemen*; titles that sufficiently shew how little part the people had in those Councils. It was also stiled in Latin *magnum consilium regis, curia magna, conventus magnatum vel procerum*, &c. titles also of the like import.

Glanv. l. 10. c. 9. l. 13, c. 32. 2 Inst. 526.

XXIII.

THE same form of government continued after the union of the Heptarchy. To the time of the benevolent Alfred we commonly refer the first institution of counties. The Chiefs, *Comites*, Aldermen, or Earls of these counties, were then the standing council of the nation; to be entitled to a seat at which forty hides of land were one constituent qualification. The *Athelings*, or higheſt order in the Council seem to have been Princes of the Blood, as it is at present in China.

Blackſt. Intr. ſ. 4.

Hume, 1. Alfred and Append. 1.

XXIV.

To the same æra we may trace the sub-division of counties into hundreds,

or

or curtenaries, and of these into tythings or *fribourghs*, (freeboroughs) a division wisely designed for the more equal distribution of justice, and the prevention of enormities, the *borsholder* or head of each *fribourg*, holding an office similar to that of Censor among the Romans, as the Guardian of Manners within his district; and the whole decennary being answerable to the State for each other's good behaviour——A practice which were well worth reviving, and which could not fail to be far more effectual for the detection, as well as prevention of henous offences, than the present unsuccessful substitute of Proclamations. Such is the remote origin of our modern *boroughs*, the peculiar institution of Alfred. And we have the pleasure to add, that the success of these institutions, was equal to his wisdom in directing them. For some part of these establishments, he may perhaps, be indebted to the prudence of his predecessors,

Montesq. l. 30, 17.

Fleta, 1.47. Finch, l. 8.

Blackst. Intr. l. 4.

ceſſors, as they are alike found in the Daniſh, French, and German conſtitutions. But to his own breaſt only, we are to aſcribe the memorable ſentiment in his will, "That it was juſt "that Engliſh ſhould remain for ever "his free at their own thoughts." This is indeed a noble teſtimony in favour of Engliſh Freedom, but far from what our Demagogues deſire. It will not amount to a *full* proof that Engliſh ſubjects have a right to *controul* the King and his Council. The royal *Alfred* received their petitions, but would not have brook'd their commands.

Seld. Tit. of Hon. 2, 3. Tac. de Mor. Germ. 6.

Aſſer. p. 24.

XV.

Such was the Great Council of Alfred; a Council which met at leaſt twice in the year, (ſays the Mirror) 'for the purpoſes of regulating the government of God's people, to keep them from ſin, to preſerve quiet, and to diſtribute juſtice.' Purpoſes, how incompatible with the pretenſions of Demagogues!

C. 1. ſ. 3.

FREQUENT

XXVI.

Danish and

FREQUENT Councils of the same sort were continued under the succeeding Danish and Saxon monarchs, as we learn from their respective codes of laws, whose titles usually mention them to be enacted, either by the King with the advice of his *Wittanagemot*, as *Hæc sunt instituta quæ Edgarus rex consilio sapientum suorum instituit*, or by the *Wittanagemot* with the advice of the King, as *Hæc sunt judicia quæ sapientes consilio regis Ethelstani instituerunt*, or by the concurrence of both, as well as that of the prelates, as *Hæc sunt institutiones quas rex Edmundus et episcopi sui cum sapientibus suis instituerunt.*

Blackst. b. I, c. 2.

XXVII.

IN all this time we perceive no mention made of the COMMONS as having any part in the government of the nation. The *Wittanagemot* certainly did not include them, which are always

mentioned

mentioned as *principes ſatrapæ optimates magnates proceres*. They were alike unknown to the *Franks*, *Burgundians*, and other *German* nations, who priding themſelves ſolely in that martial ſpirit, by which they ſubſiſted, held induſtry and commerce of little account, and acknowledged but three ranks of ſociety, *nobles*, *freemen*, and *vaſſals*. The attention of that Third eſtate of government is principally employed in legiſlation or taxation; but legiſlation was of little conſequence among thoſe who were governed only by cuſtom. The idea of the people's right in taxation was then wholly unknown. We muſt therefore have recourſe to more modern times for the diſtinct rights and duty of *conſtituent* and *repreſentative*, to times when trade has ceaſed to be inſignificant, and freemen no longer ſubmit to be vaſſals.—Times which I would wiſh to look up to as favourable to *Liberty*, but the ſuperior obligation I am under to Truth, the

Res

Res dura & regni novitas, oblige me to regard as alike inauſpicious to Liberty and liberal *Polity*.

XXVIII.

Norman Conſtitutions.

Glanv. l. 9, c. 10.

It is true we meet with an *Aſſiſa generalis* under the Princes of the Norman line. This may ſeem at firſt ſight to favour the pretenſions of the People, but we are not to expect any extenſion of privileges from thence. The violent CONQUEROR who firſt introduced foreign mercenaries into England, however he may pretend to the right of conqueſt, or even of inheritance, was no friend to the banner of Liberty. His attendant Barons were his only Council, who looked upon the Engliſh as a proſtrate nation, which they were entitled to keep in vaſſalage. The military ſpirit of thoſe fierce adventurers, the conſequence of the feudal conſtitution, while it ſeemed to ſupport the character of Engliſh freedom, was as fatal to that of the native proprietors,

prietors, as it was unfavourable to the pretenſions of commerce and induſtry. Animated with the ideas of Norman independence, which was ſtill further encreaſed by the large grants of land they obtained, they were with difficulty kept in ſubordination by the Monarch, who owed to their aſſiſtance his new acquiſitions, longer than their prompt obedience ſeemed neceſſary to the ſettlement of the conquered country.—The ſame obſervation may apply to the Engliſh nobles prior to the Conqueror, with reſpect to the Kings his predeceſſors, no leſs than to the Norman nobility, with reſpect to his ſucceſſors. The commutrtion tax of Henry II. perhaps gave the latter but too good a plea for their exceſſes. Yet whatever their exceſſes may have been, they certainly ought to receive a favourable judgment from Us, who poſſeſs by their means a conſtitution, perhaps not to be equalled on earth; but the abuſe of which cannot be therefore Hume, 1, 405.

too cautiouſly guarded againſt, according to that antient maxim, *Corruptio optimi peſſima.*

XXIX.

Such was the firſt eſtate under the Norman government. As to the ſecond eſtate, though they had the denomination of *free*, they were in reality no better than humble retainers to the Nobles, under whom they held their lands at pleaſure, and who occaſionally employed their aſſiſtance in curbing their Kings. The third eſtate, or great Body of the People, were literally *ſlaves*, yet not incapable of being advanced to freedom. Such as were in uſe among the antient *Romans*, and ſuch as are at preſent to be met with in *Poland*, *Ruſſia*, *Denmark* and *Germany*. A humiliation that was by no means thought derogatory to the national character of freedom; nor was ever utterly hopeleſs, their arms being ſtill in their hands; and which was alſo conſiderably,

ably alleviated by the different charters they obtained, and the gradual naturalization, and growing humanity of the Normans.

XXX.

I KNOW it has been pretended, that there were three eſtates of government among the antient Gauls and Germans. Tacitus mentions the people's participation in the great Council of the latter on particular occaſions, '*De minoribus rebus principes conſultant de majoribus omnes.* But this, if true, would be far from ſetting up a diſtinct Council of the Commons; ſtill farther from ſetting it above the ſuperior Council of the King. But what might be perhaps allowable in a barbarous ſtate, muſt yet be wholly inapplicable to a civilized country.

No third Eſtate in the German

XXXI.

THE Gauls, from whom it is probable we are immediately derived, had

Gallici

I allow,

I allow, republican governments among them in the days of Cæsar and Strabo. But if this is indeed, a desirable form of Polity, how far were they from possessing any of its advantages. Those republics were aristocratical. They included all the inconveniencies of kingly gove,nment, without any of its perfections, unless these aristocracies were finally subordinate to one Chief, a position which I think highly probable. From whence then should the Britons obtain this boasted democratical power? They had it not from the Germans. They *could* not have it from the Gauls. Yet Mr. Hume asserts, in one breath, that the antient British and Gallic governments were the same; that the former were monarchical, and that they were free—What a jumble of inconsistencies! Yet however inconsistent, every part of the assertion is not equally false. It is true that they were *monarchical*. This is alike affirmed by Strabo, Diodorus, and Mela. It is no less true, that

Cæs. p. 2, &c.
Strab. p. 301.
H. Britains.
Strab. p. 306.
Diod. p. 247.

that they were *free*, freedom being only to be ſecured under a kingly government. But if by this freedom Mr. Hume means a democratical power to controul the King and his great Council, ſuch a falſehood can only be founded upon the weak authority of Dion Caſſius, Δημοκρατίας ως πανδη. who alſo in this particular, contradicts himſelf, as has been ſufficiently ſhewn by the learned and judicious Hiſtorian of Mancheſter.

Compare p. 1280, with p. 957.

Whit. Mag. 1, 313-22, 8vo.

XXXII.

FROM what we have ſeen of the *Wittanegemot* of the Saxons, it appears how incompatible the dignity of that great Council muſt have been with ſuch a diſorderly pretenſion in the people. Nor are any of the modern Diets in Poland, Germany, Sweden, or the States of France which now no longer exiſt, (the fatal conſequence of tribunitial violence) a whit more favourable to this pretenſion. If poſſible their Parliament are ſtill leſs ſo, being no better than

Poliſh or Swediſh Councils.

Whitl. of Parl. p. 72.

than ſubordinate Courts of Juſtice under the controul of the King. So that if we are to derive from this nation the practice, as well as the name of Parliament, the democratical power muſt be wholly given up. So ill has been our ſucceſs in modern reſearches, that ſuch as ſtill deſire to eſtabliſh this claim upon precedents, muſt be under the neceſſity of ſearching further for precedents ſomewhat more favourable.

XXXIII.

The great error of Britiſh politicians.

I HAVE already obſerved, that it has been long the deſire of popular ſpeculatiſts to eſtabliſh that democratical principle upon the remote foundation of antiquity, which they have not been able to ſupport upon any more modern authority. Even innovators are ſo conſcious of the power of precedent, that they wholly overlook the abſurdity of ſetting up antiquity as the baſis of innovation. But this is not the only abſurdity they are guilty of, they have had

had the misfortune to overlook every thing that was ſuitable in thoſe precedents, and to force into the ſervice every thing that was inapplicable. I will firſt ſhew what they *ought* to have choſen, and then proceed to what they *have* choſen.

XXXIV.

Limited Monarchies not

THE wiſe governments of the world conducted by a limited Monarchy, the only true parallels to the Britiſh conſtitution, would have been improving exerciſes for the political attention of a Britiſh ſubject, and furniſh ſeaſonable hints for a judicious Reform, were a conſtitutional one indeed in his contemplation. The antient empire of Egypt, the fountain of ſubordination and true Polity, which ſubſiſted for ſixteen centuries, poſſeſſed of an hereditary Prince, and an auguſt Senate; conducted by equal laws, to which People and Prince were equally obedient—among whom innovation was a prodigy—

Herod. l. 2. Diod. l. 1, ſ. 2. Plat. de l. leg. 2.

digy—who never attempted to control their King or his Councils, or allowed that any one had a right to control them—who honoured their good Princes as Gods, yet subjected the bad to a posthumous trial; who considered the rising generation as the proper concern of the State—Such was the nation that were entitled to preserve their constitution entire for a length of ages. The admirable Commonwealth founded by Theseus at Athens under a *Pritaneum* of sage counsellors, where the King reserved to himself the command of armies, the nobles were entrusted with Magistracy, and the People blessed with Freedom—Above all, the inimitable constitution of China, whose source, like the Nile, is hid in the clouds; whose Monarchy is subject alone to the Laws; where the most important revolutions are effected with the most perfect silence; where virtue is diligently cultivated and rewarded; where the perfect obedience

dience in ſmall matters, ſecures thoſe of greater moment——whoſe great Council, erected upon the wiſe conſtitutions of Confucius, exempt from the violence of the people, has remained unſhaken from the earlieſt ages, and may be expected to endure for ever. What is this but to attain the true end of all Polity, to preſerve perfect ſubordination, and to ſecure the public happineſs? And if we inſpect the Eaſtern Empires who had the *firſt* power to preſcribe, and are entitled to the *laſt* appeal, however we may ſuppoſe them to be corrupted at preſent, they will be found to poſſeſs the ſame principle.

XXXVI.

Such are thoſe improving parallels that the Demagogues deſignedly overlook, while they run to every corner of the Earth to ſearch for inapplicable and periſhable republics. What have we to do with that inſignificant, tranſient, and unquiet thing a *republic*,

Republics their proper Models.

who are happily born under an *hereditary* Monarchy? What have we to fear from arbitrary power, who live under a *limited* King? But the idea of Monarchy is a Bugbear to these Levellers. I wonder they do not deny the existence of all Monarchies, as some Writers have been hardy enough to deny the existence of antient Rome.

XXXVI.

They overlook Monarchies,

and misrepresent Republics

NOR have they been yet more successful with regard to their Republican Models. As they have sedulously overlooked the *Monarchies*, they have been equally careful to misrepresent the *Republics*.—I shall now briefly proceed to amine the chief of those models, and how far they are agreeable to such an idea. I must, however, repeat, that what may have been thought safe, or even necessary to an incipient State, is not therefore suitable or safe to an adult one, a tenet in which I am authorised by Blackstone.

L. 1, c. 1. s. 2.

SUCH

XXXVII.

Such a conſtitution is ſuppoſed to be that of antient *Rome*, if we can depend upon accounts, which are allowed even by their own hiſtorians to be apochryphal. Though we will not deny the exiſtence of antient Rome, we may yet be in doubt about its primitive Government. Can we imagine that the high-mettled *Romulus* would voluntarily ſubmit to ſo incompatible a mixture? I ſhall eaſily ſhew that he did not, as far as any accounts of thoſe times may be depended on. He eſtabliſhed indeed, a Senate, or ſecond eſtate of his Chiefs which were occaſionally encreaſed by ſubſequent Kings. A like attention to rank or property, was preſerved in the centuries of Servius Tullius, an inſtitution ſimilar to thoſe among the Germans and Saxons. As to the *Plebeians*, or third eſtate, they were confeſſedly dependant upon the patronage of the former; and though they

Exemplified in Rome.

Liv. l. 6. c. 1.

Tac. de Mor. Ger. 6.

they perhaps, might have been allowed a vote in Their Election, did not originally preſume to be the Dictators of Laws. The well-known fable of Menenius Agrippa, ſufficiently ridicules this idea of a *third* power, and ſhews the abſurdity of their claim. From the method of voting by tribes where numbers only were regarded, the æra of the Tribunitial Power, we are to date the firſt pretenſion of the people to an active part in Legiſlation, a pretenſion which had it not been partially repreſſed by Sylla, could not fail to have been immediately ruinous to that State—and that it was not effectually reſtrained, we may affirm to be the immediate cauſe of its decline, according to a prophetic obſervation of *Polybius*, which has been ſince fatally verified! The antient Samnites are ſuppoſed to have been governed by a Diet elected by themſelves. I know not what their *Diet* might might have been,

Cic. de Leg. 3, 9.

Frag. l. 6.

been, but am ſure it muſt have been hard of *digeſtion.*

XXXVIII.

THE ſame Republican principle, is ſaid no leſs to have prevailed in *Carthage*, and was alike fatal to her Generals, and to the State. To this cauſe alone, ſhe muſt impute the loſs of *Hannibal*, to this her final deſtruction by the Romans. This I muſt alſo affirm to have been a corruption of the Carthaginian government, which originally conſiſted of Kings, or Suffetes, and a Senate of *Nobles* only.—It may be perhaps alledged, upon the authority of Virgil, that this Senate was in the appointment of the people; Carthage.

Jura magiſtratuſque legunt ſanctumque Senatum.

But we can anſwer, by the ſame authority, that it was their original Queen who beſtowed on them theſe favours:

Jura dabat legeſque viris.———

A remark which may equally apply to Rome, and to every riſing State.

OF

XXXIX.

Athens. Of *Athens* I have ſpoken already, and of the ruinous effect of the popular part of its government. I have only to add, that ſuch an extenſion of Democratical Power was never within the intention of Solon, whoſe wiſe maxims could they have been really reſtored by Antipater, would have been the effectual renovation of that State. Of Thebes, it is wholly unneceſſary to ſpeak, having ſubſiſted too ſhort a time to furniſh any plauſible plea to Demagogues.—And if ſuch a conſtitution was eſtabliſhed by Lycurgus at

Sparta. *Sparta*, I ſuppoſe it was to keep pace with the wiſe policy of having *two* Kings, a policy which I ſhould equally reprobate at Sparta or at Brentford. Nor were the popular practices of the Ephori more favourable to that State, than the turbulence of the Tribunitial Power to Rome. It is certain there were three orders of the State at Sparta, as every where elſe, *Reges ſeniores*, &

Populus;

Populus; but this does not go to prove, any more than at Rome, that the *Populus* originally assumed an active share in the administration. On the contrary, we know by its ill effects when they began to assume it in both. Luckily, in all infant states, they are too dependant to do so, and whenever they begin to be otherwise, it is only to the ruin of the state. And it has been the general remark of Aristotle upon the Republics of Greece, 'that after they had cast off their Kings, they soon fell a prey to military power.' A remark which admits of no exception. It is no less certain that the popular commotions of Jerusalem, excited by demagogues, were the principal causes of, as well as the worst calamities in, the final destruction of that city. Add to this, that most of those pretended Republics were, (as Dr. Swift has justly observed) no more in fact than limited Monarchies. Nor however they may boast of a Republican Government

Plut. in Alex. Just. l. 8, c. 1.

De Rep. l. 4. c. 13.

at

And Venice.

at Venice, will they find leſs diſappointment there; the foundation of its conſtitution, conqueſt, wealth and proſperity, having been confeſſedly laid by its antient Dukes, and in conſequence of a wiſe and timely abolition of the Tribunitial Power, towards the cloſe of the ſeventh century.

Iannot. de R. Ven. Med. Un. Hiſt. 27, 15.

XL.

FROM what I have ſaid, it may ſufficiently appear, that if we perſiſt in deriving the Saxon and Norman conſtitutions from our miſtaken ideas of antient or modern ones, we ſhall be after all obliged to confeſs, that in their approximation to democratical power, they wholly deviated from thoſe models, or (according to the well-known practice of imitators) adopted only their worſt defect, by introducing into Their plans of government that *third* principle which we have ſhewn to be as oppoſite to Nature, as hiſtory proves it to be fatal to States.

BUT

XLI.

But if we inſpect theſe governments more narrowly, we ſhall find they did *not* conſiſt of three orders. It is true, their Kings were limited in power, but that limitation aroſe from the laws, not from the people. Their government was only a military one: the general was king; his nobles and miniſters of ſtate, his great officers; the common ſoldiers the body of the people. To which we may add, that the conquered nations were *ſlaves*, a deſcription that exactly applies to the Norman conqueſt of England. Where then ſhall we find this boaſted *third* power? Where the ſimilarity to thoſe antient ſtates, ſo much inſiſted on by demagogues? And it has been the juſt idea of *Tacitus*, that ſuch a heterogeneous mixture, if once eſtabliſhed, could not long conſiſt with the ſafety of the ſtate; an objection which *Blackſtone* thinks to be fully anſwered, by the

Swift, v. 19. ib. 200,

No third Eſtate in the Gothic Governments.

Ann. L. 4.

Blackſt. Introd. §. 2.

permanency of the Britiſh empire. It would be no difficult matter to prove, that this obſervation does not apply to the *original* Britiſh conſtitution, which did *not* conſiſt, as I have already ſhewn, and ſhall hereafter more fully evince, of a mixture ſo incompatible: and if ſuch a dangerous principle has been ſince introduced, by the concurrence of cauſes, we are to look upon it in the light of Hercules' arrows, which, tho' unerring, were fatal to their owner; we are to aſſign to it, not the permanency, but the actual diſmemberment of the empire. For to what other cauſe but this principle prevailing in the colonies, are we to attribute the loſs of America? To what, but to this principle prevailing at home, the miſguided emigration of our manufacturers hither? I will not ſay, that we have been wholly without fault, but I will maintain, that they were far from being faultleſs;—I will not ſay, that they have had no cauſe

or in the original Britiſh Conſtitution.

to

to complain, but I will aſſert, that the chief cauſe of complaint was in themſelves:—I will not ſay, that our government is conducted in the beſt manner poſſible, (as indeed what human inſtitution, however perfect, will not deviate in practice?) but I defy that principle to produce any adminiſtration equally good, or to terminate in any thing leſs than the abſolute anarchy of the Many, or at beſt the tyranny of One. And for this we need only appeal to the preſent ſituation of thoſe colonies; nor does it require the ſpirit of prophecy to tell what muſt be their future eſtate;—The *præteritorum memoria is quite enough for that purpoſe.*

XLII.

Thus far I have gone to diſprove the abſurd and dangerous idea of a *third* power, inherent in the people at large, paramount to the executive power of the ſtate, or qualified to

to controul its great council; I will now ingenuouſly confeſs, that there *was* from the earlieſt times, a *third* power in the ſtate, poſſeſſed of its full ſhare of authority, though now almoſt wholly ſet aſide;—a third power that theſe idle demagogues little dream of, and leſs reſpect;—a third power eſtabliſhed in wiſdom and ſanctity no leſs in England than in the other monarchies of Europe;—a third power, not however diſtinct from the one great council of the nation, as in other kingdoms; but bearing a principal, a neceſſary and eſſential part in it;—a third power, out of whom the legiſlators, the pleaders, the judges were choſen. This great power is *the Church*—a name how odious to demagogues! how oppoſite to all their deſigns! Its original neceſſity in the ſtate, reſulted from the general ignorance of the Gothic nations in letters, religion, legiſlation, and policy. The Church was in thoſe

The third Power what.

Hume 3. 353.

Swift vol. 19.

Blackſt. Introduc. P. 19.

W. Malms l. 4 Dugd. or. Ju. c. 8.

ages

ages the depoſitary of every thing eſſential to be known. Such was the public utility of the *Druids* among the antient Gauls; ſuch were the *Prieſts* among the Saxons. To the leading character of theſe ſages, the *Wittanegemot* is indebted for its name. Such were thoſe *ſapientes* who bore a part in the councils of the ſagacious *Alfred*, who complains that the great body of the people, in his time, were overcaſt with darkneſs, and wholly incapable of aſſiſting him with their councils. *Hume* may pretend to be ignorant who theſe *Wites* or *Sapientes* were; but *Hume* is no friend to the Church. It is ſufficiently explained by *Brompton's Comites, Barones,* and *Cleri:* it is ſufficiently explained by *Polydore Virgil, Conſilium Principum & Sacerdotum.* It is ſtill further confirmed by the Saxon chronicle, which ſummons all Archbiſhops, Abbots, and Thanes to Gloceſter, *ad procerum conventum,*

Cæſ. de B. G. 6. 12.

Hume. Alfred.

conventum. It cannot poſſibly be confined to perſons ſkilled in law, as has been alledged by ſome, ſince we know of no written law prior to thoſe of the excellent *Alfred*. No leſs was the rank of this order of men in all the great nations of antiquity. Such were the ἱερεῖς and *Pontifices* among the Greeks, Romans, Ægyptians, and Jews; the *Magi* among the Perſians; to omit other nations. Such was the original dignity of this order, a dignity which they obtained, ſays *Swift*, 'by the moſt juſtifiable means.' It has been long a cauſe of complaint, that this order of men, in the ſucceſſive changes of government, have loſt a conſiderable ſhare of their dignity. They were excepted from the common privileges allowed to all other profeſſions, of obtaining employment according to their different degrees of merit or popularity, by the excluſive appointment of pariſh miniſters,

Hume 1, 221

Swift vol. 19. p. 291.

Seld. of Tythes; c. 1. 9.

ſters, ſo long ſince as the time of King *Edgar*. They were deprived of their immunity from taxes under the Conqueror; but that ſeems to have been only a natural effect of the feudal conſtitution. Nor was their aſſiſtance ſo eſſential to the ſtate councils under the enlightened Normans. They were ſtill further deprived of their conſequence, under King Henry III, when that Prince having ſet up a diſtinct profeſſion of the common law, they were finally excluded from the practice of the courts. Under his ſucceſſors, they ſuffered a great variety of fortune; till a final blow was given to their affairs by the diſſolution of abbies, in the time of Henry VIII. Nor have the revenues that ſtill remain to them, been leſs pernicious to their intereſt, being chiefly an odious tythe upon land. Thus they have been at all times equally unfortunate, in what they have *loſt* and what they have *gained*.

Swift. ib. 276.

Spelm. Conc. A. D. 1217, Wilkins 1, p. 574, 599. Swift 1, 38.

THEIR

XLIII.

Its Decline

THEIR convocations are long ſilent. Yet upon pretence of theſe they have been wholly excluded from the lower houſe, and alſo ſometimes from the upper; and they and the peers have equally loſt the priviledge of taxing themſelves, now exerciſed only by the commons; perhaps from their own acquieſcence, perhaps by compact—though Blackſtone attempts to aſſign other reaſons which will be found little ſatisfactory. They have been often looked upon as dangerous to government, only for their laudable ambition; a charge wholly founded in malice. They are men, and have the faults incident to humanity. They need not, however, complain to ſuffer the ſame charge that was alledged againſt Cæſar, when they conſider who are their enemies;—

Blackſt. of Parl.

Hume - Stuart, 3, 254.

But Brutus ſays, he was ambitious;
And Brutus is an honourable man.

They

They have been no leſs unjuſtly arraigned, as the willing tools of every adminiſtration, and have been content to incur the odium of popular demagogues for their acknowledged fidelity to their Prince. Thus they have been always expoſed to the moſt oppoſite and incompatible charges. Yet it ought to be remembered to their honour, that the ſame implicit obedience they uſually pay to their Prince, they can pay to the impulſe of liberty and of their country, when they require their aſſiſtance; and that to the public ſpirited endeavours and eloquence of Langton, Archbiſhop of Canterbury, ſeconded by the intrepid Barons of his day, in oppoſition to a tyrannical Prince and the ſpiritual artillery of Rome, we are at preſent indebted for our invaluable birth-right, in the poſſeſſion of Magna Charta. Nor ſhould we forever forget the loyalty at once, and public ſpirit of the whole body of clergy, under King James

and character.

Hume Stuart. 2. 252.

Hume Stuart. 4. 278.

II. (a very few excepted) who oppoſed that unfortunate King in his extravagant ſtrides over the conſtitution, yet adhered to him in propoſing a regency as ſoon as they conceived the dignity of the crown to be affected. A proof that whatever they may think of, maxim of paſſive obedience, they have never ſuffered it to interfere with
ib. 3. 116. the laws of eſtabliſhed order. Nor ought the violent ſilencing of their aſſemblies by the uſurper Cromwell, or their equally violent excluſion from the Houſe of Lords on two different occaſions, by
ib. 4. 110. the inſolence of the Commons, in the time of the Charles's, be looked upon as leſs to their praiſe in the opinion of candid inquirers; ſince ſuch indignities would have never happened to them, could they have tamely ſubmitted to change their principles with the change times. So true is, that they have been in all ages equally attentive to the juſt rights of the Prince and the People.

Such

XLIV.

Such was the only council of the nation under the Norman line, and even this council was but rarely convened. Nor do we as yet hear of any third eſtate of the commons. It is true there is a paſſage in Polydore Virgil, that ſeems to add the *reliqui populi* to the great council. And the laws of Edward the conqueror, before quoted, record that the *heretoghs* or dukes, and ſheriffs, were choſen annually by the freeholders in the folkemote. But the latter of theſe authorities has been given up as ſuppoſitious by the beſt judges—the former is at beſt but a ſingle authority and can be oppoſed by others equally reſpectable. It is aſſerted in the Saxon Chronicle, whoſe authenticity has never been diſputed, that the appointment of the great council, Dukes, Earls, Aldermen and Sheriffs, was a branch of the Royal Prerogative. It is no leſs

Swift 1.95.

Swift v. 19. p. 289.

Hume 1. 219.

The pretenſion of the people examined.

Walſingham, &c.

poſitively affirmed by Aſſur, a cotemporary writer, that Alfred depoſed the ignorant aldermen and ſubſtituted others in their place. The expreſſion therefore of Polydore, if it has any meaning, can only imply that an addition was occaſionally made to the great council by permiſſion of the King, from the inferior orders of the State; and from the variety of expreſſions applied to that great council, in the different ages of England ſays Swift, we may reaſonably conclude that it was not always compoſed in the ſame manner, neither is their any mention made of the commons in the Charters of Henry 1ſt; or of Stephen. *Charters* were the faſhion of that age, as *Air-Balloons* are of this. But thoſe Charters were never enforced: They were hollow like Air-Balloons, and like them, the meer amuſements of a day. It is true the Magna Charta of King John is exempt from this obſervation.

Swift 19. 289, 291.

Hume 251. v. 2.

tion. But whatever ſolid advantages the people might thereby have obtained—the return therein directed to be made to the twenty-five Barons of twelve Delegates from every county, at the election of the freeholders to ſtate their grievances, ſeems rather an occaſional addition to the great council, than the permanent foundation of future Parliaments.

Hume 2, 264.

XLV.

It has been erroneouſly imagined by ſome, that Henry 1ſt was the founder of the Houſes of Parliament as they now ſtand. They have even ventured to fix that event to the fifteenth year of his reign. An idea which can only have originated from his ſuperior eloquence and learning, a circumſtance which alſo might have induced him to deſire a more frequent repetition of ſuch meetings, than had been the cuſtom of his predeceſſors.

Swift 19. 288, 305.

No third Eſtate under Henry firſt.

But

XLVI.

Yet the People not the leſs happy.

But though the people in all this length of time, were not fully poſſeſſed of a regular repreſentation or of intire liberty; yet we have already ſeen ſome noble approaches to it, but luckily for the duration of their State, with an intention very different from that of ſetting up a Tribunitial Power. Though we have already touched upon moſt of them, it may not be amiſs to recapitulate: It will at leaſt ſerve to ſhew how little cauſe the people have had to complain in any period of Engliſh Government; and if they are manifeſtly poſſeſſed of advantages far ſuperior to what they formerly enjoyed, what reaſon they have to be ſatisfied with their preſent rulers, and to pride themſelves in that Monarchy and that Ariſtocracy to which they are at once ſo *indebted*, and ſo *averſe*!

XLVII.

UNDER the Saxon Kings, they were indulged with mild laws, eſtabliſhed by their own conſent; and allowed to chooſe their Sheriffs, &c. by the generous permiſſion of Alfred. The humanity of Edward the Conqueror, ſeconded perhaps by the ſpirited remonſtrances of Earl Godwyn, reſtored the ſame laws: Together with a compilation from thoſe of Edgar, Ethelbert and Ina. The earneſt petition of the people enforced by the prelates, obtained a revival of the ſame laws from the Norman Conqueror. The goodneſs of Edward 1ſt, eſtabliſhed circuits in England, for the diſtribution of juſtice—a favour which was afterwards extended to Ireland by King James 1ſt. In the greater and leſſer Barons of the *Magna Charta*, Sir William Blackſtone even thinks he perceives the *primæ lineæ* of our preſent Parliaments.

Hume 1. 196, 182.

ib. 282.

Howel Med. p. 85.

of Parl.

I will

I will not deprive him of ſo pleaſing a deluſion. But there are ſufficient advantages in that Charter without hunting for imaginary ones. The right of the People, to petition for redreſs of grievances, alſo recognized by the ſame Charter, has been ſince confirmed by innumerable Statutes; confirming alſo their right to laws eſtabliſhed by common conſent. Nor, though it does not properly belong to the ſame period, can we here omit the abolition of villenage in the reign of King Henry VII, owing to the generoſity of that King; or even the extention of the ſame to Scotland, under the politic Cromwell. Other favours of this ſort conferred by the ſame uſurper, have been aſſerted by Mr. Hume, to proceed from a ſpirit of *liberty*. We have rather reaſon to ſuſpect that they originated from a ſpirit of innovation. *Timeo Denaos vel dona ferentes*: The Petition of Right, the Habeas Corpus, the

the Bill of Rights; and the act of Settlement; are all further corroborations of this great birth-right of Engliſhmen. If the people ſhould prove ungrateful for ſuch ſingular privileges; what is this but to uſe their liberty for a cloak of licentiouſneſs?—what is it but to imitate 'the deaf Adder that refuſeth to hear the voice of the Charmer, charm he never ſo wiſely'?—what is it but to become literally that frozen Adder in the fable, that turned its venom againſt the life of him who had foſtered it in his Boſom?.

XLVIII.

Though their beſt Priviledges were.

Nor were the people of England for many ages, without another glorious privilege, a joint right with that of the great council of prelates and peers, in giving a ſanction to their elected King, when the direct hereditary line had failed. This is evinced by the plea of Harold againſt the pretenſion

of William the Conqueror, that it was *abſque generali ſenatus et populi conventu et edicto*, a plea that was however ſuperſeded by force of arms. Yet ſo little was the Conqueror himſelf ſatisfied with the right of arms, that he endeavoured to ſet up the more prevailing right of inheritance. Of the ſame popular kind, was alſo the favourite title of Stephen. *Ego Stephanus dei gratia aſſenſu cleri et populi in regem Anglorum electus &c.* The law of ſucceſſion to the Crown of England eſtabliſhed under Edward the III, and its different changes under his ſucceſſors Henry IV, Henry VII, Henry VIII, Queen Mary, and Queen Elizabeth, were all exertions of the ſame privilege, after the inſtitution of Parliaments. The famous bill of excluſion in the reign of King Charles II, which however did not take effect, was only an aſſertion of the ſame inherent right: The revolution in 1688, the ſubſequent declaration of the convention

of

W. Malms l. 3

Carte A.D. 1136. R. de Hagusted 314. Hearne ad G. Naubr. 711.

of Lords and Commons in favour of the Prince and Princeſs of Orange, and the Statute under the ſame reign diſpoſing of the remainder of the Crown; were further manifeſtations of this right.

XLIX.

BUT let not the people imagine that they are poſſeſſed of this great privilege otherwiſe than by the favour of their Kings. The acknowledged hereditary right of their Kings can be traced back to three hundred years before Egbert. It has been allowed by the people themſelves, in their perpetual adherence to the Royal blood; even whenever they exerciſed the right of election! It appears to have been acknowledged by the great conventions, from the care they took to procure the royal ratification to their proceedings afterwards—a circumſtance that ought to be a warning to all future conventions who take upon

Blackſt. B. 1. c. 3.

The gift of their Kings.

Stat. 12. Car. 2. c. 1. 13 Car. 2. c. 7, & 14. 1 W. M. H. 1, c. 1.

themſelves to meet for political purpoſes, unauthorized by their King! It has been no leſs allowed by the ableſt lawyers of every age. It is true this right of the people, though acknowledged by Harold for his own purpoſes, ſeems to have been little known to his predeceſſors; their right if ever it came in queſtion, having been determined only by the *Wittanegemot*; nor was the ſuperior right of Edgar Atheling, (the hereditary Prince) ever doubted by the beſt judges. The reader will perceive that I have purpoſely omitted the imprecedented trial and ſentence of King Charles I, in this detail of popular privileges——the infamous judges, or rather murtherers, of that day having impleaded him as an *elective* not an *hereditary* King;—a title as foreign to the crown of theſe countries, which has been always poſſeſſed by right of deſcent, except in a few inſtances, as the exceſſes of popular fanaticiſm, and the violence of military uſurpation, are to every idea

1 Sid. 1.

Mat. Paris A. D. 1066. Blackſt. ib.

Blackſt. B. 1. c. 3. p. 199.

Mat. Paris A. D. 1066. St. 5. Edw. 3. § 2.

of

of a free Government, and a ſtanding argument (ſays Blackſtone) in favour of hereditary monarchy to all future ages.

L.

To return from this ſhort digreſſion if it can be juſtly conſidered as ſuch: Theſe were noble advances to freedom 'perhaps the utmoſt that a feudal and 'military age was capable of: To be 'poſſeſſed of full, perfect, legal, and 'equal liberty, would require an age 'of ſuperior refinement, and informa-'tion as well in the people as their ru-'lers.' Such has been the remark of Hume; but where are theſe advantages to be realized? Where is that age of full information, that can render legal liberty ſecure?—How exceedingly different from this is that knowledge and that liberty that the Many ſo thirſt after?—a liberty which were as unſafe for the people to poſſeſs, as it might be a proof of generoſity in the Prince to

beſtow

beſtow, or of ſpirit in the nation to demand; and a knowledge of fanatic and republican ſyſtems, which has been already the bane of theſe nations; how much wiſer were it to fix a limit to both, 'Thus far ſhall ye go and no further'. I have only to repeat, what ought never to be forgot to the utter confuſion of popular incendiaries; that all theſe benefits, whether they were originally owing to the voluntary motion of the Kings, or to the intrepid exertion of dignified Prelates and Barons, were only and ultimately the grant of the Prince, and in nowiſe obtained by the exertion of Tribunitial Power in the People.

LI.

In all this time there were no *Commons*, nor needed any; had there been any they muſt have been, like the *reliqui populi* of original Rome, unpoſſeſſed of a tumultuous and dangerous conſequence: The time for tribunitial exertions

exertions was luckily *not yet come.* The peers and the prelates, ſtill kept their dignity, and the people acquieſced in a peaceable ſubordination to both; or if there was any commotion, they acted only as ſeconds, they did not yet pretend to be principals! They did not yet venture to arraign the influence of their King, and his Peers: They lived contented with the laws of Alfred, and the precincts of *Magna Charta.* If this was an error it was a *happy* one, it was an advantageous one; *Fœlices errore ſuo*; how much leſs dangerous to the State, than the injudicious exertion of a republican power? This is one of thoſe quack remedies that ought never to be applied but in the moſt critical caſes. It may be juſtly conſidered as a two edged Sword which is no leſs fitted for deſtruction than for defence. I would be glad to aſk with all our learned and complicated improvements, what more can we boaſt of at preſent,

preſent, than the *Habeas Corpus*, the trial by juries, and *Magna Charta* thoſe beſt jewels in the diadem of Engliſh Liberty! Thoſe precious legacies of our Saxon and Norman Kings, Prelates and Barons! The *Habeas* it is true, was not obtained till the time of King Charles II; but its foundation was laid in the principle of the *Magna Charta*.

Hume 4. 108.

LII.

First Parliaments whence.

HITHERTO we have heard of *Councils*, we know nothing of PARLIAMENTS. That name was the original growth of France; we find it firſt aſſumed by the general aſſemblies of the States, under Lewis VII, in the twelfth century. Loſing its conſequence at home, it determined to try a more favourable region. It emigrated to England in the reign of Edward I. Yet Blackſtone ventures to auſpicate, even from *French* Parliaments, the renovation of Gallic liberty: *Quod fælix fanſtumque ſit*; may the

Stat. Weſt. 13.

but prophecy be a true one! But if that day ſhould ever arrive, may they attain, not a tumultuary and turbulent, but a legitimate liberty: On this head we may ſafely truſt to the confeſſion of the oracle of demagogues—'where 'there is no law', (ſays Locke) 'there 'is no freedom'.

LIII.

The infancy

We are now come to the great æra in the popular conſtitution of England, the firſt regular ſummonſes of the COMMONS to parliament; but even here we ſhall in vain expect to find the leaſt traces of *tribunitial* power. They were ſo far from entertaining any idea or deſire of dictating to, or diſturbing the State by that means, that they looked upon the right of repreſentation as a grievance, rather than a privilege; and the repreſentative looked upon his attendance as a *hardſhip*, not as a *favour*. This great event happened at Marlborough, in the 49th of Henry III, and

Douglas, Intr. § 1. Note (F).

Howell Med. 83.

was principally owing to the ſpirited exertions of the Peers: But however it might be deſired by the Peers, againſt the King, it was certainly granted by the King, for the diminution of the Peers: But let the motive of both be what it would, the people were benefited, and ought to be thankfull. There were four Knights Commiſſioners to be returned for every ſhire. In this ſummons were included all the counties, and only two cities, London, and Lincoln. The uſual writ of ſummons ſhews for what purpoſe theſe returns were deſigned to be made; they were there ſaid to be convened only by the advice and conſent of his Majeſty's Council to treat and have conference with the prelates great men and peers, concerning certain arduous and urgent affairs of his ſaid Majeſty, his Kingdom and Church. 6 Inſt. 14

LIV.

THE following reign preſents a new period in the infant hiſtory of the Commons—

mons—the right of taxation voluntarily resigned by the excellent Edward I; but let not here the people be misled by their demagogues to misconceive the intention of that enlightened King. The privilege was not resigned to them alone, it was alike conferred on the Prelates and Peers, and luckily the people of that day were in no condition to assert an exclusive claim. To this reign we are also to refer the royal institution of *Boroughs*; nor can we conceive this to be done for the further aggrandizement of the people who were sufficiently represented already. It ought therefore rather to be considered as a prudent provision against their increasing power.

Howel. ib. 84.

LV.

Thus the Commons were originally constituted by enlightened Princes and spirited Prelates and Peers, as a firm barrier, against the excessive influence

of either, containing alſo in themſelves, a remedy againſt the dangerous powers of the people; and thus they continued under ſeveral ſucceſſive reigns, flouriſhing with a perpetual extenſion of franchiſes to towns cities and boroughs, poſſeſſing a ſilent but ſafe power, equally to the advantage of the people and their rulers, before the influx of wealth had deſtroyed ſubordination, or ſpeculative knowledge had buoyed up ambition; and this we are to look upon as the perfect *manhood* of Britiſh Parliaments: While the commons were content with their own place and had not yet conceived the flattering yet pernicious idea, of a popular government. The Manhood

LVI.

But a third and melancholy period was yet to arrive, under the VII and VIII Henrys, when a Statute of alienations ſhould lay waſte the Peerage, and the diſſolution of abbeys the Church

Church; thereby forever destroying an influence which had for so many ages secured at once liberty to the people, and dignity to the Prince. The people saw their day and were glad; grown rich by the gradual encrease of commerce, they were ready to purchase the lands that lay open to them—they *did* purchase them. The consequences were such as might have been expected. The insolence of *novi homines* who have wealth, and the *ambitiosa paupertas* of those who have none, that 'toe of the peasant comes so near the courtier's heel that it galls his kibe.' The ancient Romans hoped to counteract such an effect by sumptuary laws; the Jews by a prevention of perpetual alienations—our Saxon ancestors by a Statute of entails.—but how vain were all these precautions against a tribunitial spirit! To this æra we are to refer the beginning of the *declension* of Parliments. I would not be

Douglas Introd.

understood

understood to mean a decline of the popular power which was evidently encreased, but a decline of that just subordination which is so essential to the safety of the state, and to the true character of Parliaments.

LVII.

But this was not however the period when that degation become most apparent. However the influence of the sun is manifestly greater in summer, it is not until autumn we experience the most intolerable heats. Though the power of the people at this period, greatly overballanced that of Peers, Prelates and Prince, yet the firmness of the Tudor administration, their œconomy and independence, rendered them little apprehensive of the danger of popular commotions. Add to this that the tribunitial power was new and required time and opportunity to mature it. The people were

The decline of British parliaments.

were ſtill not wholly independent of the crown or peerage, and had not yet conceived the bold idea of ſetting up a ſeparate intereſt, by means of that very power which had been given them for the ſervice of both.

LVIII.

As the Tudors, while they were conferring privileges on the people, yet had originated Boroughs, as a neceſſary check upon ſo dangerous a power; ſo that magnanimous line, as well as their ſucceſſors till the time of King William, ſtill continued to multiply them to the encreaſe of their own dignity, and as a perpetual barrier againſt the encroachment of the commons. But the Princes of the houſe of Stuart, not poſſeſſed of the ſame ability and œconomy, ſoon found the inſufficiency of this barrier, againſt the encreaſing weight; however enlarged and ſtrengthened, it ſtill wanted a Tudor to ſupport

it:

it: They had not the good ſenſe to perceive that the government was reduced by the late changes to a popular foundation, and that *they* were *no Tudors*! They were therefore obliged to attempt the reduction of this overbalance, by expedients as diſhonourable to themſelves, as pernicious to the people. What were theſe expedients and their conſequences will preſently appear. It may be alledged, that theſe unfortunate Princes had greater difficulties to ſtruggle with, and required far greater ability than their predeceſſors: They had to combat at once, religious enthuſiaſm, republican phrenzy, and the diſſolute manners of the worſt age! Theſe might perhaps have been difficulties had they preſented themſelves to the houſe of Tudor, but to the Stuarts, they were unſurmountable! Yet the wiſdom, patriotiſm, loyalty and moderation, diſplayed in the act of Settlement, ſhew that the worſt effects

of

of tribunitial power were not to be apprehended by William III: This advantage however we may impute no leſs to the ſteadineſs of that King, than to the prudence of his Parliament.

LIX.

We know what perpetual diſſentions diſturbed the adminiſtration of Anne, as well as the concluding years of her predeceſſor. The dæmon of popular diſcord went forth, and has never been laid ſince. From this period we are to commence the fourth and laſt ſtage of Parliaments:—

The Author's Caution.

" Ever ſince their way of life
" Is fall'n into the ſear and yellow leaf!
" And that which ſhould accompany old age,
" As honor, love, obedience, troops of friends,
" They muſt not look to have!

But what can we expect better from the delegates of thoſe who boaſt that they are wiſer than their Teachers, and greater than their Rulers; who think

themſelves privileged to break into the moſt ſacred receſſes, as Satan of old invaded paradiſe; who conſider every diviation from their crude ideas of policy, a juſt plea for turbulent interference; and ſanctify outrage by the ſpecious name of REFORM! What can the repreſentatives of ſuch electors be but thoſe long ſince deſcribed by Virgil in his infernal Parliament?—

Metus, et malaſuada fames, et turpis Egeſtas,
Ferreique Eumenidum thalami, et Diſcordia Demens,
Vipereum crinem vittis innexa cruentis.

LX.

The Author's Gaution.

I believe I need not remind my reader that I am only ſpeaking of thoſe parliamentary demagogues that ſo infeſted the latter years of King William, and the reign of Queen Anne. To criticiſe upon preſent councils would be, (if it were indeed neceſſary)—

Incedere per ignes
Suppoſitos cineri doloſo:

But

But luckily the tribunitial ſpirit how-ever prevalent out of doors, is not ſo triumphant within; add to this, that it is confeſſedly ſafeſt to attack a *dead* Lion: I know ſome people are too ready to ſpeak of an Aſs in a Lions ſkin, and of the Aſs in Æſop that was puniſhed for taking unwarrantable freedoms with his maſter; but thoſe fables do not apply to Me; I ſo reſpect a living Lion that I would do homage even to an Aſs in his cloathing.

LXI.

Preſent State of Parliaments.

DURING the reign of King William, we find no new change made in the State of Repreſentation. The union of Wales with England, under King Henry VIII, had already added twenty four members to the number: That of Scotland in 1706, forty five more; thus at the demiſe of Queen Anne, the parliament, which in the time of King Henry VI, counted only three hundred,

ed, ought to have comprized five hundred and eighty three members, but in reality, conſiſted only of five hundred and fifty eight, ſome of thoſe additions having been meer renewals of Charters for places whoſe elections had fallen into diſrepute; and ſuch was its ſtate, at the acceſſon of the heirs of the excellent Princeſs Sophia! A ſtate which it has preſerved without innovation down to the preſent time. I am aware that Douglas ſuppoſes the power of altering parliaments to have been reſigned at the Scots Union, under the idea that any new change would deſtroy the relative repreſentation of the two countries, which was then finally ſettled: What he alledges might prevail, if one alone was to be conſidered; but might not ſuch a change be made in both as would preſerve the fixed proportion? And how will his reaſon account for the above mentioned *nonchalance* of King William, who was pri-

Introd. Note (C)

or

or to that union? And why may not the ſame motives that actuated that King, have an equal influence upon his ſucceſſors?

LXII.

FROM the foregoing faithful account of the progreſs of paſt Parliaments in England, the following concluſions naturally reſult:— Remarks thereon.

FIRST, That as well in the firſt creation, as in every ſubſequent change, if we except a very few caſes (which were confirmed by act), the royal prerogative alone was exerted. Glanv. Rep. Pref. Somers's State Tracts, &c.

SECONDLY, That even if we ſhould wave the original inſtitution of BOROUGHS, ſo early as the time of King Alfred as not in point to our preſent purpoſe, they are yet confeſſedly as old as the reign of Edward I, and muſt be conſidered as an eſſential part of the Engliſh Conſtitution.

THIRDLY,

THIRDLY, That parliaments in general, were originally inſtituted to aſſiſt at the King's councils, but by no means to direct them.

FOURTHLY, That Boroughs were more particularly deſigned by a wiſe precaution at once to conciliate the Peers, and to ſupport the intereſts of the King, whenever the county repreſentation ſhould be found to counteract them. An important truth which the frequent aſperſions thrown by popular pleaders, againſt the pretended tyranny of writs of election, ſeems abundantly to confirm. It is alſo a well known fact, that there are upon record ſeveral inſtances of ſingle houſes being erected into Boroughs both in Great Britain and Ireland, upon the avowed motive of being conſtitutional rewards and incentives to the loyalty of individuals; the propriety of which proceeding was never called in queſtion, untill the preſent time.

Douglas. caſe of Abingdon.

FIFTHLY,

FIFTHLY, That Boroughs can only be conſidered as culpable and conſequently a proper ſubject of reform, when they are employed to ſupport a Tribunitial Power againſt the peace of the King, and his Realm; an imputation which has lain againſt Britiſh Councils ſo long ago as the time of the Hiſtorian *Tacitus*, and which methinks it is now high time to correct.

'*Olim regibus parebant nunc per principes factionibus et ſtudiis trahuntur.*' Vil. Agric. c. 12.

LASTLY, That elections for particular places having fallen into diſuſe in the times previous to Queen Anne; were eſteemed a proper cauſe for the Royal Interpoſition; which has been always exerted not to deſtroy them, but to reſtore them; except in a few inſtances: As, by particular application from themſelves on account of the charges attending ſuch a franchiſe, &c. As to the popular topic of corruption lately alledged againſt them, Douglas Note (C) Caſe of Pomfret, &c.

Douglas &c.

them, which was wholly unknown to the earlier ages, we ſhall preſently take occaſion to examine the juſtice of the charge. When the people as I lately obſerved, grew weary of paying their repreſentative; was it not worthy of the generoſity of Kings to continue to them ſuch a privilege?

LXIII.

Et nunc immenſum ſpatiis confecimus æquor:

Let us ſtop and take a view of the regions we have paſſed. Behold two oppoſite and contraſted pictures:—— SUBORDINATION, PEACE, INDUSTRY, PROSPERITY—POLITICAL FRENZY, DISCORD, IDLENESS, RUIN. On one ſide; thoſe glorious Parliaments that originating as they ought from the Fountain of honor, conducted the public buſineſs for a ſeries of reigns, and had not yet loſt their diſtinguiſhing characteriſtic, under the Princes of the Houſe of Tudor. That magnanimous line, were at once too *firm* to be dependant on their people, and too generous

not

not to ſubmit to their reaſonable pretenſions. The laſt of that illuſtrious Houſe, though perhaps the moſt deſpotic of all our Princes, raiſed England to a height of glory and of happineſs that has been ſeldom equalled, certainly never exceeded ſince. Such a Parliament was at once calculated to add ſplendor to the Throne, ſtability to the government, and ſecurity to the ſubject. The King could not be in danger from the ſteadineſs of his adminiſtration; the people need not be afraid while they hold the Sword in their hand. Such a Parliament, it is true could not be the road to unreſpectable honor, but it could never fail of its due conſequence, while it poſſeſſed the power of originating laws and the diſpoſal of the public money: Let us take leave of it with the *Eulogium* it deſerves. '*Et ille quidem plenus annis abiit plenus honoribus illis etiam quos recuſavit*'.

Hume Stuarts l. 122.

Plin. Ep. L. 2. Ep. 1.

LXIV.

On the other ſide, a Parliament that profeſſes itſelf to originate meerly from the people, whoſe members conſider themſelves as Tribunes appointed to act in oppoſition to the other departments of government; however it may pretend to ſupport the intereſts of the people, is in fact taking the moſt rapid ſtrides to their and its own deſtruction. What can be the effect of theſe republican councils, but the ſame military tyranny that was formerly ſo fatal to Rome and Greece? What is it but a revival of the Trojan Horſe with an armed convention in its belly?—

O patria! O divum domus Ilium et inclyta bello
Mœnia Dardanidum!

But while I am expreſſing my concern at the political violence of thoſe who ſtand at the corner of the Streets,

'With open mouth ſwallowing a Taylor's news'

I am fallen inſenſibly into the practiſe I condemn; let us have done with this melancholy

melancholy topic.—' Gods I grow a talker!'

LXV.

To what principle ſhall we impute the deplorable increaſe of this Tribunitial power, ſo dangerous at once to the Prince, to the Peers, to the Prelates and to the public ſafety? From what has been ſaid, we may eaſily trace it to the following cauſes:— Cauſes of the decline of Parliaments.

1ſt. To the generoſity of Henry II, which, when it granted the right of repreſentation and taxation, was wholly unaware of the dangerous and monopolizing power of the people, or looked upon the influence of the Peers and Prelates as ſufficient to counteract it.

2d. To the magnanimity, independence and œconomy of the Houſe of Tudor; which, while it ſtudyed to deminiſh its natural rivals, the Prelates and Peers, was not afraid to confer new privileges on the commons; ſtill

reſerving to itſelf a neceſſary cheque upon their repeated violences.

Hume Stuarts 1. 3. 243 4. 111 &c.

3d. To the weakneſs, tyranny and want of œconomy in the Houſe of Stuart, ſo different from the firmneſs of the Houſe of Tudor, which reduced them to a mean dependance on the people, by whom they were at once deſpiſed and dreaded.

ib. 23.

4th. To the gradual increaſe of literary knowledge, which diffuſing favourable ideas of the ancient republican governments, tended to excite a demon which nothing leſs than fatal experience could lay. I would not be underſtood to mean that ſuch is the natural tendency of knowledge, but ſuch is the effect of imperfect light tranſmitted through the jaundiced eye of fanaticiſm.

5th. To the almoſt total extinction of the Norman Peers in the troubles of King Charles I; as the Saxon nobility

bility had before been waſted in the fatal Battle of Haſtings.

6th. To their acquieſcence under the excluſive right of taxation, aſſumed by the Commons, in the time of King Charles II: An acquieſcence which yet could never have happened, but for the depreſſed ſtate of the peerage at that time—and which however ſince ſubmitted to, has never been given up. ib. 3. 321.

7th. To the puritanical principle grafted upon the republican in the time of the Protector, a mixture equally fatal to the Legiſlative, the Executive and the Spiritual Powers. ib. 1. 91. 124. 2. 231.

8th. To the ſubſequent anarchy, infidelity and immorality, the natural effect of the contrary exceſſes in a preceding age; paroxyſms of heat and cold in the body politic no leſs than in the pathological ſtate of the natural body, being always inſeparable from each other.

9th.

ib. 4. §37. 256.

9th. Above all, to the fallacious idea that all power originates in the people, and that theſe, like Lord Peter's cruſt of bread, are virtually King, Lords and Commons in themſelves:—

Ex illo ruere et retro ſublapſa referri
Res Danaum.

LXVI.

Mem. p. 3. Appen. p. 42.

A contemplation of ſuch oppoſite exceſſes as theſe in Princes and People, led Sir William Temple to conclude 'that though a King alone cannot ſave a Kingdom, yet a King alone can do very much to ruin it; and though Parliaments alone cannot ſave a Kingdon, yet Parliaments can do very much to ruin it.' With regard to his firſt remark; how much more truly might the accompliſhed Statesmann have ſaid that a King who ſeeks to ruin a Kingdom will more certainly ruin himſelf, an obſervation that has been literally verifyed in the Stuarts. And whoever conſiders attentively the courſe of Engliſh Hiſtory muſt perceive, that if

ever

ever the Kings were desirous of absolute power they must have been in all ages effectually precluded—the Normans and Saxons by the exertions of spirited Barons—the Tudors and their successors by the encreasing power of the Commons.

LXVII.

I am sorry I can still less agree with the excellent author in his observation upon Parliaments. For that Parliament, *can* save a Kingdom, the glorious revolution of 1688, may evince; and if we allow what has been long ago determined by the sage Lord Burleigh, that England can never be ruined but by her Parliament; we must admit as a necessary consequence, that Parliaments can ruin a Nation, and that the only danger we ought to guard against, is the excessive power of the people, our Government resting at present, as it has long done, principally on a popular foundation. The superior power must have always been sensible of this, but from a variety of causes in different ages,

Their worst disorder what.

Blackst. B. 1. c. 2. § 3.

The different expedients

ages, appeared little to attend to it. The Normans had not occaſion to counteract it, more than by a Borough-intereſt, in which however they ſeem to have taken little concern. The intrepidity of the Tudors did not even fear to encreaſe it. The laſt and greateſt of them did not heſitate to make her boaſt of it. The houſe of Orange was too cautious to dread it; that of Hanover, were too well eſtabliſhed to regard it. The ſituation of Engliſh Kings in fact requires expedients, and there *are* expedients and antidotes that may and ought to be tryed. But ſuch have been rarely tryed by thoſe who had moſt occaſion for them. The weakneſs and obſtinacy of the the Stuart line while it required the moſt effectual, was only qualified to chuſe the moſt incompetent ones.

Douglas Caſes Introd. § 1.

LXVIII.

that have been employed

The *firſt* of that line was not, like the wiſe Elizabeth, ſatisfied with an extenſive power eſtabliſhed upon a popular

pular baſis: He conceived the bold idea of contracting the baſis and encreaſing the power; he created a new power upon a narrow foundation, but that foundation he boaſted to be *divine*. This expedient might have ſucceeded in abler hands and in other times. It was the expedient of Numa, but James I. was not a *Numa*. 'He was a 'Prince' (ſays Blackſtone,) 'of more learning than wiſdom.' The age of right divine was over, as well as the conſequence of the church. by the Stuart line

LXIX.

It was the juſt maxim of King James I. that Kings are *not* to be ſlaves to their Subjects—how happy had he alſo adopted the converſe of that propoſition, inſtead of the raſh opinion he embraced, that ſubjects *ought* to be ſlaves to their King—how much wiſer had he been content with an allowed title by deſcent, inſtead of a *diſputed* divine one!

THE errors of the Father were continued in the Son. The ſame pious plea of right divine ſo little reliſhed by the nation, if it ſucceeded but feebly with the former, became fatal to the latter: A pregnant proof that arbitrary meaſures poſſeſs the leaſt power, and that even *royal* piety requires good ſenſe for its counſellor.

LXX.

UPON the death of Charles I, the popular foundation ſwelled again—how much better had it ſtopped before it was grown to a tympany! It continued ſwelling without intermiſſion till it roſe into an immenſe Pyramidal *Balloon*; and that nothing might again impede its exaltation, it was charged by the *aeroſtats* of that day with a combuſtible fanatical ſpirit. A political Pyramid, no leſs than a Geometrical one; however high it may be, however its baſis may be extended, muſt at length terminate in a *point*. That ſharp point the nation felt in the tyranny of Cromwell. But luckily for the nation

nation and royal family, the point broke off before the wound became fatal to both; the Balloon burſt, and the inflammable *gaz* evaporated.

LXXI.

EXPEDIENTS that had been ſo far from ſucceſsfull, came but ill recommended to Charles II; he little approved of the *broad baſis*; he ſtill leſs approved of the inflammable *gaz*, nor had the *narrow* baſis of right divine been more advantageous to his predeceſſors; however he ſtill adhered to a narrow baſis, but a new one and a politer one. This was the celebrated *court party* that originated under that King, and has been ſo faſhionable an engine of government ever ſince; but it was very different from that court party that ſo unſucceſsfully ſupported his royal father. They were not *Falklands* or *Newcaſtles*; the *Falklands* were now no more, nor would *even* they have been ſufficient. The courtiers of this reign were a very dif-

ferent ſort of men indeed; they were *novi homines*, the meer *whippers-in* of a court; they were as *volage* as Jeſſamy, 'all faſhion no weight!' This light armed band he attached to himſelf by a tie as light as themſelves, to which the vulgar have annexed the title of *Bribes*; and lived long enough to experience how light indeed that tie is, when ſet in *oppoſition* to the general intereſt and wiſhes of a nation—ſo much ſuperior to *corruption* is *principle*!

LXXII.

His ſucceſſor James II, wiſely perceived the futility of all theſe expedients when ſingle. He thought of a new one that ſhould unite all the ſtrength of the reſt. This was a *perſecuting Church* and *martial Law*: This complicated party may be termed the *church militant*; however ſanguine his hopes, it ſucceeded even worſe than either would have done ſingly; ſo that (ſays a judicious author) 'while he was 'ſubduing

Lett. to King William 1698.

'ſubduing the people to popery by a 'proteſtant army, he loſt both people 'and army, and in conſequence loſt 'himſelf.'

LXXIII.

SUCH are thoſe *reſources trompeuſes* to uſe a phraſe of Barillon, which are always a broken reed to thoſe that lean on them. Such have been the unfortunate expedients of the Houſe of Stuart; *Whig* and *Tory*, *Court* party and *Country* party, a *fallen* Church and a *ſtanding* Army:—A monument of the eventful hiſtory of parties!—It is a Machiavelian principle *Divide et impera*;—a principle that would require far more than a Stuart to make it ſafe, far more than a Machiavel to make it effectual or permanent; even a victory obtained by ſuch a principle is far more dangerous than a defeat. 'A houſe divided againſt itſelf, 'ſays our ſacred oracle, cannot ſtand.' How ſhall a kingdom divided againſt itſelf ſtand? There are diviſions enough

and their fatal conſequences.

Hume Stuarts 1. 120 4. 130.

enough ordained by nature, why ſhould we multiply them by art? *Principle*, *Prejudice*, *Intereſt*, *Paſſion*; are not theſe enough without political parties? *Roman Catholic*, *Proteſtant*, *Diſſenter*;

1 Cor. 4. 'there are many kinds of voices', 'ſays 'St. Paul,' 'and none of them with-'out ſignification.' Since we cannot hope to reconcile theſe, why ſhould we encreaſe their diſſentions? Yet there are *reconcilers* no leſs dangerous than *dividers*:—

—Sunt certi denique fines
Quos ultra citraque nequit conſiſtere rectum.

There are certain differences that are as neceſſarily incompatible to union as light and ſhade, fire and water. To unite theſe, either or both muſt forego their nature: To reconcile oppoſite ſects of religion, either or both muſt forego their principle. Such has been the ſage determination of Puffendorf; and if religious parties *cannot* be reconciled, political parties *will* not: What have been the effects of the *late* coalition

of

of parties, but ſuch as might be expected from a mixture of incompatibles? The Princes of the Brunſwick line are magnanimous, are popular, are independent; they are ſafe by the act of ſucceſſion—rich by an encreaſed revenue: Why do we ſtill hear of thoſe *reſources trompeuſes* that they have no occaſion to patronize? Alas, the neceſſity ariſes from yourſelves, ye *minions of the people*! Your King does not deſire to employ theſe *reſources trompeuſes*, it is your own violence makes them neceſſary—it is *you* that have converted the Houſe of Council into an office of money-changers—it is *you* that have turned the temple of peace into a den of clamour—it is *you* that are never ſilent till you have received your *ſop*!

Why they are not ſince diſcontinued

LXXIV.

Much has been lately ſaid of a reform of Parliament, and to how little purpoſe! How many other reforms are wholly caſt behind our backs that yet

Parliamentary Reform why neceſſary.

yet are equally eſſential and more in our own power. A reform of our *lives*—a reform of our *manners*—an attention to our own affairs, inſtead of thoſe of the State: How much more wanting are theſe, and yet how entirely neglected? How happy would *ſuch* a reform be for our families? What a relief to the nation! How would it even render a more violent reform unneceſſary!

LXXV.

Or if we have ſuch a rage for a reform in Parliament, why do we not wiſh to reform its undue tribunitial power, rather than its conſtitutional ſubordination? Why do we not ſpeak of thoſe diſputes that have ſo long ſuperſeded debates, where ſo much is *ſpoken* and ſo little *ſaid?* Why do we prefer thoſe Norman laws that have been ſo often amended, that they are grown at laſt like Sir John Cutler's ſtockings; to the ſimplicity of Saxon juriſprudence that needed no amendment? Since we are ſo fond of appealing

ing to the antients; why do we not wish to revive their salutary *amor patriæ* instead of that *amor dapis atque pugnæ* that seems to have become epidemical among us. Why do we wish to forego our limited and happy hereditary monarchy for these ruinous and fallacious republican theories? Where are that deliberation and silence that ought to introduce momentous councils? Why are we all *grass-hoppers*? The council of aged Priam was a council of this kind, as we learn from Homer; its Roman name is *Cicada*. This name grew familiar to England from Counsellor John Cade, who flourished in the fifteenth century. Such a council might have been suitable to aged Priam; but it must be a devil of a council that is composed of *young counsellor grass-hoppers*. I fear that even that illustrious councellor was of little service to the Yorkists who employed him. It is permitted to the old to be loquacious; but the young should be *eloquent*,

Il. 3.

eloquentem non loquacem. Petrarc.

eloquent, not loquacious. 'Heaven is 'a quiet place', ſaid an excellent Prelate to William Penn; the council of a great Kingdom ought to be like Heaven, where the repreſentative of the King of Kings is always virtually preſent. I know that Dr. Swift has alledged the inapplicability of our ideas of Heaven to every reform of earthly government, from the depravity of human nature! I confeſs I cannot ſee the force of his objection; I can even draw from his *datum* a contrary concluſion; *that* very imperfection ought to be the cauſe of our deſiring the contrary; our *not* being poſſeſſed of the Kingdom of Heaven, is the reaſon that we are directed to *pray* for it. What a happineſs, could we expect ever to realize it upon earth! We can at leaſt endeavour to approximate to it! Even this were 'a conſummation

Sent. of a Ch. of Eng. Men

'Devoutly to be wiſhed'

This would be a reform indeed, why do we not hear of it?

But

LXXVI.

The primitive constitution of Parliaments

But ſince a reform of another kind is the faſhion of the preſent day; ſince nothing leſs than a violent reform of Parliament will ſatisfy our State Empirics:——

Such a harmonious Inclination
Is in all ranks for Reformation.

It is highly neceſſary for any writer who deſigns that his works ſhall be read, to comply with the political frenzy of the times. And as however extravagant their zeal may be, they generally make it their pretence that they only deſire to revive the primitive Conſtitution of Parliaments; we ſhall now proceed to inquire into that Conſtitution, its *Rank*, *Character*, *Powers*, *Duration*, *Duty* and *Object*; from a thorough inveſtigation of which we ſhall be able to perceive how far it has deviated from its original lineaments; whether its real faults are thoſe that moſt commonly imputed to it; whether any of thoſe remedies that

have been yet propoſed, are applicable or conſtitutional; and whether there may not be found a more effectual remedy within the precincts of the Conſtitution, than any that have been as yet offered. I have already premiſed that it is not my deſign to make any remark that can particularly apply to the preſent Parliament, which I conceive to be in every reſpect leſs liable to exception, than thoſe that immediately preceded it. For this reaſon I ſhall confine myſelf to ſuch obſervations upon paſt Parliaments, as while they are confeſſedly free from any invidious tendency, muſt be allowed by all parties, to have only in view the good of my country.

LXXVII.

AND firſt, as to their RANK; they are allowed to be a ſupreme court paramount with the executive power. But this muſt be received with a conſiderable allowance. We have ſeen that it originally derived its exiſtance from the

King. It is ſummoned by his writ, it continues by his permiſſion, and is diſſolved by his breath: So that its equality is only what *minores* may have to *majores* poſterity to their anceſtors: It may think of the King, as Sons too often take the liberty to think of their Fathers—and it will find the ſame conſequence ſo juſtly ſet down by the poet;——

We think our fathers fools, ſo wiſe we grow;
Our wiſer ſons, no doubt, will think us ſo!

But in both it were certainly more prudent, as well as more pious to acknowledge the debt of filiation, to be ſubordinate and grateful. The great council is however in all civilized nations allowed to be ſacred: *Sanctæque ſenatum*! And may they ever remain ſo, though the ſame privilege is ſcarcely allowed to Kings!

LXXVIII.

SECONDLY, As to their CHARACTER; they originally were required to be

1. *Principes*, Athelings, Heretoghs, Dukes,

Dukes, Thanes, &c. ſome of theſe were Councellors by birth.

2d. *Satrapæ, Comites, Barones*, Aldermen, Earls, Barons, &c. Thoſe who held places of truſt and honor.

3d. *Abbates, Epiſcopi*, &c. Archbiſhops, Biſhops, Abbots, &c. Theſe were Councellors by their ſtation.

4th. *Majores natu*: Perſons of confirmed age and experience.

5th. *Sapientes, Wites Sacerdotes Cleri*: Theſe Councellors by their holy profeſſion. They are alſo diſtinguiſhed from *Epiſcopi* in the title of the laws of Edmund, a proof that they were a diſtinct order in the council: From them the *Wittanegemote* take its name; a further proof how eſſential theſe were to the great council!

v. before p. 38.

6th. *Magnates terræ*: Thoſe who poſſeſſed forty hydes of land. This was ſo eſſential a requiſition for the firſt ſeat, that even one of the blood royal was not entituled without it. The *reliqui populi* by the laws of Alfred,

fred, were permitted to make returns, but only of ſuch as anſwered to one or other of theſe deſcriptions; *and were wholly excluded themſelves!* But they were yet ſo far from complaining of this excluſion that they even looked upon the right of repreſentation itſelf, as an incumbrance.

LXXIX.

SUCH was the wiſdom of that original conſtitution, the foundation of all the bleſſings we at preſent poſſeſs: A conſtitution which we may perceive to be exactly conformable to the Roman and Athenian councils as eſtabliſhed by Romulus, Theſeus and Solon; not to mention that of Lycurgus at Sparta, which no leſs agreed with it in ſeveral particulars. Such were alſo the qualifications required for the *ſacred college* in Ægypt, for the *Senatus* at Carthage, for the *Sanedrim* among the Jews, for the great *Council* of China; until the popular intrigues of the Ephori, the demagogues of Athens and Carthage,

the

the Tribunes at Rome, the Zealots in Jeruſalem, and the military tyranny in Ægypt had diſcovered the way to confound all diſtinctions of the State, and to degrade the Senate. And if ſuch a degradation has not been ſubmitted to by the great council of China, it is becauſe the royal power has never declined, nor the tribunitial ever found its way there!

Herod. L. 2. Diod. L. 1. § 2.

LXXX.

compared with the preſent.

We have ſeen the original characteriſtics of the one great council; we are now to conſider how far theſe characteriſtics correſpond with the preſent conſtitution of Britiſh Parliaments, and how far and from what cauſes they have deviated. As they formerly conſiſted only of two eſtates, the King and his council; they now conſiſt of three, the King, Lords and Commons: This muſt at firſt ſight appear an innovation, unleſs we ſuppoſe the Commons to be only a ſubſtitute for the *Sapientes*, who yet are never mentioned in

theſe

thoſe remote times, as having a ſeparate houſe. This queſtion perhaps we may occaſionally touch upon when we proceed to ſpeak of the Commons. It is true the preſent topic of reform ſeems only to concern Them; and if we can believe the moderate declarations of the preſent reformers, their intention goes no farther: But whoever will attend to the hiſtory of reformations in England, muſt perceive how far the King and his hereditary council are from being unconcerned ſpectators; on the contrary, how deeply—very deeply they are intereſted! The reformers of King Charles firſt's time were more explicit than ours: They openly declared that their object was *the King*. They had learned from antient books, that there was a famous reformer of old, by name *Procruſtes*, who obliged all his ſubjects to conform to the length of an *Iron Bed* which he had prepared for the purpoſe, by lopping off their redundant limbs; This refor-

mer was unluckily a King. The ſubjects of that day took the hint and deſired to retaliate upon *their* King: They diſcovered that their monarch was too tall; they agreed that he ought to be ſhorter *by the head*. It was therefore determined in a popular council that he ſhould loſe his head. Such was their *bed of juſtice* and avowed idea of *Reform*; an idea which I will not impute to the reformers of the preſent day; but I ſhould be yet ſorry that the life of the King depended on *their* loyalty. The peers were no leſs the ſubject of reform in that day; moſt of them ſuffered the ſame painful reform with their maſter: The few that remained were obliged to forego whatever of their juſt privileges the tribunitial power thought proper to uſurp; nor were theſe proſecutions of the King and his peers wholly over in the reign of King George I: A leſs violent attempt was made againſt both in that reign, but luckily without effect: This

Blackſt. 1. c. 2. § 2.

was

was to reſtrain the Kings inherent prerogative in the creation of Peers: But it ſeems a ſufficient cheque upon this royal prerogative, that the more numerous the Peers grow beyond a certain limit, the leſs is their authority, either in appeaſing the people, or in ſupporting their Prince; add to this, that the antient peers are far from being pleaſed with numerous creations, and the new ones cannot conſider that feather as an high obligation, which is obtained ſo very cheaply. The peerage muſt therefore be regarded as one of thoſe poſſeſſions whoſe principal value is its rarity, and which it can therefore be never the true intereſt of Kings to render too common, Blackſt. ib.

LXXXI.

I know that ſome diſtinguiſhed writers, both at home and abroad, from an unjuſt prejudice in favour of eaſtern governments, have objected to an hereditary nobility: But theſe gentlemen while they expatiate v. La, Predication, &c.

perhaps truly on its inconveniences, ſeem to have forgot the mixt condition of all human things, 'ſhall we have 'good and not evil?' They ſeem to have forgot thoſe advantages that ſo greatly over-balance its defects. I appeal to the whole Engliſh Hiſtory, from whence have the moſt diſtinguiſhed land and ſea officers been generally drafted, but out of this illuſtrious and ſpirited order? A ſpirit that I maintain can never be found but among hereditary nobles: So that it is clear that an antient hereditary peerage is the only firm bulwark and ſupport of a nation!—Theſe are all counſellors by birth, except the ſixteen Peers of Scotland, who are made ſo by election; a fertile ſubject for a Scottiſh reform!

LXXXII.

As to the Prelates, they have ſuffered enough of reformation already: They have been allowed to ſit in the Peers houſe and excluded; allowed a vote and no vote; till they are reduced to perfect

proteus's;

proteus's; ſo that I know not what further reform they need fear from the tribunitial power: They and the Peers have been equally excluded from their original ſhare in the right of taxation. Blackſtone aſſigns as a reaſon, that they are under the influence of the crown: I aſk how much leſs muſt thoſe be under influence who have already obtained the *fleſh-pots*, than thoſe members of the lower houſe, who are ſtill gaping for them? Another reaſon has been aſſigned, that the property of both bears no proportion to that of the Commons: This might have perhaps been true under the different perſecutions they formerly ſuffered from the tribunitial power; but is far from being true at preſent when they are at peace in their poſſeſſions, and the peerage daily encreaſing. But even though true, their right would not be leſs, nor their excluſion leſs unjuſt: Their interference in the election of the Commons, has alſo been voted to be illegal.

Why

Why then are the *filii nobiles* permitted to ſit in the lower houſe, and even exempted from the uſual qualification by the ſtatute of the twenty third of Henry VI? The interference of the King at elections, has been objected to, with leſs propriety and equal inconſiſtency: The King's army are obliged to keep at a diſtance from the places when polls are taken;—if this proceeding is right, why are the officers of the army not wholly excluded from Parliament upon the ſame principle? But we ought to recollect, that it was ſuch faithful ſervants of the State that compoſed the great councils of Alfred and Arthur.

Blackſt. B. 1. c. 2. § 5.

LXXXIII.

Its Character.

WE now proceed to the lower houſe: The principal characteriſtics of its members as far as we can collect them from the cuſtoms of Parliament laid down by themſelves, as well as from certain Statutes, are as follow:—

4 Inſt. 47. 48.

1ſt. They muſt not be aliens.

2d.

2d. Or minors, &c. The latter herhaps, not is always as ſtrictly obſerved as it ought, either with reſpect to age or ability: And both of them may ſerve us convincing proofs, that a knowledge of the country and its laws, were looked upon as eſſential qualifications; they ought to be *ſapientes*.

3d. Or perſons attainted for treaſon or felony. This has been alſo obſerved in every wiſe ſtate. 4 Inſt. 47.

4th. Neither muſt they be any of the twelve judges. From an idea I ſuppoſe of theſe being under influence of the crown, of which however they have been made independent, at the humane deſire of the preſent King. Would not a rule be at leaſt equally wiſe, that ſhould exclude all ſuch as are *no judges?* As well as more agreeable to the ancient qualification of *ſapientes?* c J. 9 Nov. 1605.

5th. Nor are Sheriffs of counties, or Mayors, or Bailiffs of Boroughs, eligible within their reſpective juriſdictions, as being *returning officers*. But this c J. 25 Jan. 1604, &c.

prohibition

4th Inſt. 48. prohibition does not prevent Sheriffs of one county, from being eligible in another: So that this reſpectable order of men are not entirely excluded; however the tribunitial power has often attempted to exclude them.

Stat. 5. 6. W. & M. c. 7. Stat. 6. Ann. c. 7. Stat. 11 & 12. W. 3. c. 2. 12, &c. 6th. Nor perſons concerned in the management of duties, or taxes laid on ſince 1692: Nor who hold any office under the crown, created ſince 1705, &c. This prohibition extends to a variety of other officers, and only excepts the commiſſioners of the treaſury: So that the King has been deprived of the councils of a number of his beſt ſervants. But this prohibition *luckily* does not at preſent extend to Ireland; though often attempted by the tribunitial power.

Geo. I. c. 56. 7th. Nor perſons having penſions during pleaſure under the crown: And I allow that it is but reaſonable that thoſe who are themſelves a tax upon the public, ſhould not have the power to tax them.

Stat. 6. An. c. 7. 8th. A perſon having accepted an office

office under the crown, vacates his ſeat, but is reeligible. *Officers of the army or navy, happily are not included in this prohibition.*

9th. All knights of the ſhire ſhall be actual knights, and by no means of the degree of Yeomen; and by a later regulation, every knight of the ſhire is required to have a clear eſtate to the value of ſix hundred pounds a year: Every citizen and burgeſs the half. This regulation unluckily does not extend to Ireland. The univerſities are, however, perhaps juſtly exempted.

Stat. 23. Henry 6. c. 15.

Stat. 9. Ann. c. 5.

10th. The clergy are excluded; for they ſit in the convocation, ſays Blackſtone, which *now exiſts no longer.*

C. J. 13 Oct. 1553. 8 Feb. 1620.

11th. The members for cities and boroughs, muſt be free of and reſident in the places for which they are choſen. This regulation is entirely diſregarded, and perhaps would not be poſſible to enforce, as it ſeems contradictory to the election of Sheriffs, &c; yet ought

Stat. 1. Hen. 5. c. 1. 23, &c.

never to have been diſpenſed with, but for good reaſons.

LXXXIV.

Upon the different particulars in the above liſt and their dates in the margin, we may obſerve in general;

1ſt. That whatever is perfectly inexceptionable in thoſe charaſteriſtics, has been the immemorial uſage of Parliaments, and all great councils of the world. Such are the excluſion of Yeomen, and perſons diſqualifyed by natural or criminal incapacity: The qualification bill, &c.

2d. That wherever they have deviated from that immemorial uſage to the great annoyance of the State, it has been meerly effected by the turbulent intrigues of the tribunitial power, ſince the æra we have fixed for the decline of Parliaments. Under this latter head we may reckon the excluſion of the King's ſervants, of the clergy, &c. to the great diminution of the lower houſe, by the loſs of its *magnates*

nates and ſapientes. I am however, happy to add, that ſuch an improper excluſion did not originate under the illuſtrious houſe of Hanover.

LXXXV.

THE ſame wiſdom that directed our anceſtors in ſpecifying the character of Repreſentatives, obliged them alſo to aſcertain the qualifications of electors. Theſe it would be improper entirely to overlook, in ſuch an enquiry as this; as upon them alone we are to depend for what kind of returns may be made into Parliament. I ſhall therefore ſet down a few of them. An elector for knights of the ſhire

1ſt. Muſt be poſſeſſed of a freehold to the value of forty ſhillings by the year, within the county—not fraudulently obtained.

2d. Muſt be a reſident.

3d. Muſt not be a minor or convicted of perjury &c. The ſecond and third ſimilar to the firſt and ſecond articles of the former liſt. The latter

of theſe perhaps not ſufficient guarded againſt—the former of them equally juſt, ſince thoſe who are appointed to elect *ſapientes*, ought to be in ſome degree ſo themſelves.

4th. Nor tenant by copy of court roll, as being only a tenant at will. The firſt of theſe requiſites is as old as 8 Henry VI. at a period when forty ſhillings was equivalent to twenty pounds at preſent; And if ſuch a limitation was not affixed earlier, as ſome have ſuppoſed, it can only have been becauſe the violence of the people had not yet rendered it neceſſary. It however ſufficiently appears from the above limitation, that our wiſe anceſtors were of opinion, that the diſpoſal of a vote was a privilege too eſſential to the State to be ſafely truſted with all. The other reſtrictions with more I have omitted, were proviſions of the ſame kind, wiſely added ſince the acceſſion of the houſe of Hanover, for the further prevention of fraudulent votes; and which however, odious they

Douglas Caſes.

they may appear to the tribunitial power; ought rather to be multiplyed than removed. I have only to add on this head with the learned Blackſtone, to the confuſion of levellers, that comparative property was evidently deſigned to maintain its due weight in elections, ſince a perſon whoſe property is diffuſed, has a right to a proportional number of votes, in the appointment of repreſentatives. B. 1. c. 2.

The Qualification for Borough Electors

are various depending on ſeveral charters. But we may in general obſerve upon the tenor of late deciſions in caſes of controverted elections, founded upon antient charters; that houſe-holders *reſiants* paying ſcot and lot, holding by burgage tenure, have in themſelves the ſole right of voting. An additional proof how unconſtitutional are Their ideas who look upon the extenſion of the franchiſe, as an eſſential part of conſtitutional reform!

To

LXXXVI.

Powers.

To return to the Commons: As to the POWERS and PRIVILEGES of this auguſt court, they are ſo various and undefiable that they have been emphatically called 'the omnipotence of Parliament,' by 'a figure,' (as Blackſtone acknowleges,) 'rather to bold!' And though I concur with Lord Coke, in allowing it the moſt venerable antiquity, authority and juriſdiction; *ſi antiquitatem ſpectes vetuſtiſſima ſi dignitatem auguſtiſſima ſi authoritatem capaciſſima*—I can as little approve of the unreaſonable encomium beſtowed on it by Forteſcue, 'that it is ſo high and 'mighty in its nature, that it may 'make law, and that which is law it 'may make no law:' As I conceive that the infringment of good laws, ought not to be at the diſcretion even of the moſt auguſt Parliaments. I will readily allow them, if they pleaſe the power to do every thing which is not impoſſible, which is the utmoſt we allow

Blackſt. B. 1. c. 2. Forteſcue.

4 Inſt. 36.

Seld. Baron. part. 2. c. 4.

Blackſt. Introd. § 3.

8 Rep. 118.

low to God: But I inſiſt that they ought to look upon every thing as impoſſible, that ought not to be done. What is in fact the validity of our boaſted laws founded on the wiſdom of ages; if their acknowleged antiquity and excellence cannot ſecure them from tribunitial invaſion? What is that enormous claim of uncontroulable power, but a ridiculous revival of the exploded Romiſh infallibility? But luckily for our peace, the ſeal which gives this bull its validity is only in poſſeſſion of our Prince; nor does he pretend to be above the laws, he is but the law ſpeaking. 'The whole legiſlature (ſays Lord Bolingbroke,) may be called in one ſenſe *abſolute*, but in none, *arbitrary*.' It is true that a tribunitial Parliament under Charles I, made a violent attempt to throw of this neceſſity of ſubordination to their Prince and his Peers; by their vote of the 4th of January 1648. But the wiſer Parliament of his ſucceſſor, happily took care to

4 Jan. 1648

13 Ch. 2. c. 1.

to defeat it, by reſtoring their derived power to its due ſubordination under their rightful Prince; the *caput principium and finis* of all authority in the State.

4 Inſt. 6.

LXXXVII.

But as this auguſt houſe, though mighty in deed yet is not ſatisfyed without being *more* ſo; ſo it is alſo mighty in word, yet it will not be content without being 'above the mightieſt.' But they ought to recollect that this very freedom of debate which they make ſo *free* with, is the perpetual grant of their King, ſince the time of Edward the confeſſor, originated in the Gothic conſtitutions and continued by every ſucceeding King to every ſucceſſive Parliament. It is indeed declared by ſtatute 1 W. and M. that the freedom of ſpeech in debate, and proceedings in parliament ought not to be impeached or queſtioned in any place out of parliament; but that this liberty was at the revolution only deſigned to extend

Stierph. de J. Goth. c. 3. c. 3.

Stat. 2. c. 2.

to

to all decent liberty of ſpeech, ſo abundantly manifeſt; ſeveral perſons under that firm adminiſtration, having been ſent from the commons houſe to the tower for an exceſs of tribunitial indecorum. It is true that they ſeem to be above the law: No legal proceſs during the ſitting of Parliament taking place againſt them. This might have been wiſely provided under the old gothic conſtitutions, and the laws of Edward the confeſſor, to prevent the interruption of *ſapientes* and *magnates* in the public buſineſs. But if it is a true principle of polity *honeſte vivere alterum non lædere ſuum cuique tribuere* —If it is no leſs allowed that Magna Charta did right in promiſing for the King and all his ſubordinate courts *nulli vendemus nulli negabimus aut differemus juſtitiam*—ſurely what is indefenſible in the individual, can never be juſt in the aggregate body; nor can that priviledge which was originally deſigned for *ſapientes* and *magnates* alone,

C. Jour. 4th. Dec. 1717.

Blackſt. 1. c. 2.

c. 3.

Inſt. 1. 1. 3.

c. 29.

who would never abuſe it; be therefore, either proper or neceſſary, to be indiſcriminately extended to thoſe who have no pretention to either of thoſe auguſt characters. It has been therefore wiſely determined by Blackſtone, that 'no crime whatever, was deſigned to 'be ſanctioned by privilege of Parliament;' and Parliament have often had the decorum to wave ſuch an exceptionable privilege: Thereby tacitly acknowledging that even this enormous privilege ought to give place to the laws; an aſſertion which is ſeconded by Sir Edward Coke. The original extent of this privilege ſeems to have been only for 14 days by the gothic Conſtitutions—*ad quatuordecim dies convocato regni ſenatu.* That it has been ſince extended unreaſonably to forty days before the Seſſion, and as many after, as far as it concerns their perſons; can be only conſidered as one of the moſt dangerous innovations of a tribunitial Parliament, and which could

B. 1. c. 2.

2 Inſt. 55.

Sternh. de J. Goth. 43. c. 3.

6 An. c. 8. § 3.

could not fail to be a perpetual barrier againſt the due courſe of juſtice, were Parliaments themſelves perpetual: That we are in a great meaſure free from theſe accumulated evils we owe to the illuſtrious houſe of Hanover!

LXXXVIII.

WE are next to conſider the DURATION of Parliaments; It does not appear that theſe councils were perpetual, even in the age of the *magnates* and *ſapientes*: By the laws of Alfred, the great council were to meet at leaſt twice in three years; but were uſually holden at the three great feſtivals. By thoſe of Edward III. once in every year, or oftener if need be. They appear to have met at ſtated intervals in the time of the Norman Conqueror; but muſt have been much diſcontinued under his ſucceſſors, ſince one of the benefits derived from the Magna Charta of King John, was a promiſe to convene them *when neceſſary*. But this ſeems, however, to have been rea-

Duration.

4 Ed. 3. c. 14.

36 Ed. 3. c. 10.

B. 1. c. 2.

lized but once, and afterwards they were left to their uſual uncertainty. Hen-
Blackſt. ib. ry the II. was fond of them, and poſſibly convened them often: But all this though it does not certainly determine whether they were the ſame or different councils; it yet ſufficiently ſhews that the councils of thoſe days were not poſſeſſed of perpetual power; but derived all their power from the occaſional writ of the King: Nor ſince the inſtitution of our preſent Parliaments have they been ever perpetual; if not terminable ſooner, yet certainly they have been always ſo at the demiſe of the King. But theſe alſo, however longlived were not always poſſeſſed of power. The
c. 1. Statute 16 Car. 2, requires them to be convened once in three years. The
c. 2. Statute 6 W. and M. requires a new Parliament to be convened in three years from the determination of the former. The utmoſt duration that
as in Sweden. Mod. U. H. 33. 15. was allowed by the ſame Statute, was three years, a period which was after-

wards

wards lengthened to ſeven, by the wiſer Parliament of 1 George I, from a juſt experience of the numberleſs inconveniences of too frequent elections. Thus the ſame houſe that was choſen for three years, enacted its own continuance for ſeven, 'a ſingular inſtance' (ſays Blackſtone,) 'of the vaſt authority of Parliament!' Perhaps he had ſpoken more correctly, certainly more popularly, had he allowed it to be over-ſtrained, as it did not paſs without a ſtrong oppoſition. But it ſhould be remembered that this prolongation was allowed in the preamble, to be only adopted for *temporary* reaſons; nor was it effected without the concurrence of the King; who alone poſſeſſes the power of ſummoning and diſſolving Parliaments. It is true an outrageous attempt was made to diſpoſſeſs him of this power, in a former reign, by the ſame tribunitial Parliament that had before exempted themſelves from his negative upon their proceedings.

Stat. 2. c. 38.

Blackſt. b. 1. c. 2.

4 Inſt. 6.

ings. But this attempt ſucceeded no better than the firſt. Theſe ſeptennial Parliaments, though eſtabliſhed with ſo plauſible a reaſon, were far from being agreeable to the people. They continue to this day, among the popular Topics of conſtitutional reform; and are the principal objection of Junius; though it is far from being a decided point, that the original Parliaments were ſhorter.

16 Ch. 2. c. 1.

LXXXIX.

Duty.

As ſuch great privileges and immunities could only have been conferred on repreſentatives, to leave them more perfectly at leiſure from their private affairs, to attend to the public good; (a motive which alſo occaſioned their being originally paid for their attendance) ſo the election is no ſooner over, than the repreſentative is bound by the nature of his truſt, to conſider himſelf as the delegate of the whole empire, not of a particular county or borough of it. 'For the end of his coming thither,' (ſays

(ſays Blackſtone,) 'is not particular, 'but general; not barely to advantage 'his conſtituents but the *Commonwealth* --or as it is expreſſed in the ſtatute; 'for 'the redreſs of all grievances, for the 'amending, ſtrengthening, and preſerv- 'ing the laws:' How could theſe com- prehenſive objects be attained, if every member was confined to a narrow, ſelfiſh and incompatible proviſion for every particular diſtrict? Or rather how muſt they be all overwhelmed by ſuch an heterogeneous mixture! Would it not be the height of political as well as phyſical abſurdity, to ſubject the council of the nation to influences ſo contradictory as we would even be aſhamed to attribute to *a ſtone!* But if they attend to their writ of ſummons, they will perceive that they were not deſigned to be under the ſhackles of ſo ſhameful and diſqualifying a neceſſity: There it appears that they are convened to adviſe his majeſty *de communi conſilio ſuper negotiis arduis regem ſtatum*

16 Car. 2. c. 1.

et

et eccleſiam concernentibus;—to expect more particular compliances from repreſentatives; what is it but to reduce them to the abject condition of deputies in the united provinces, who are bound implicitly to obey the will of their maſters? However, I may wiſh to ſee Parliaments properly ſubordinate to the King; I ſhould be ſorry to ſee them give place to ignorant and intereſted electors. This would be the life of a ſlave, not of a Britiſh Rrepreſentative; and it appears from Douglas, that ſuch a ſervile compliance was never expected even from Scottiſh Delegates, however they might voluntarily comply with the wiſhes of their conſtituents. Let me then no longer be ſtunned with the practiſe of infant republics: What might have been allowable, or even expedient to them, where there was no confuſion of jarring intereſts; is neither poſſible nor deſirable for Us: I may be aſked, are there no caſes in a commercial State, where Parliaments may be in doubt

Blackſt. B. 1. c. 2.

Caſe of Wigtoun, Note (C).

doubt and ſtand in need of ſpecific information: I anſwer, let them examine proper perſons at the bar of the houſe, on every ſuch occaſion, according to the antient rule *Cuilibet in ſua arte credendum*—and determine from what they hear: But let the electors give their vote and remain for ever after ſubordinate and ſilent as they ought to be. Such is the relative duty of elector and repreſentative: Momentous obligations! Which it is eſſential to every free ſtate, that neither ſhould ever loſe ſight of. But as I can ſcarcely at preſent expect ſuch an acquieſcence from my friends the electors; and ſtill leſs from the *non-Electors:* I ſhall conclude this part of my work with a ſeaſonable maxim for the practice of governors and repreſentatives, with reſpect to them: 'Mobs,' (ſays De Retz,) 'are always in awe of thoſe that do 'not fear them.' Upon which Lord Cheſterfield humanely remarks—'that 'as wiſe and able governors will never

Winch. 24. Blackſt. Intr. § 3.

of Electors and Repreſentatives.

Lett. to his Son. v. 2. Lett. 80

'give the people juſt cauſe to com-
'plain; ſo on the other hand, they will
'firmly withſtand all the violence of
'cauſeleſs clamour.'

XC.

SUCH was the prudent deciſion of the favorite Lord Lieutenant of Ireland; —ſuch was his own conduct: And I cannot in candor omit that her preſent CHIEF GOVERNOR has never yet deviated from the bright path of his predeceſſor! Were I ſo inclined, I might eaſily enlarge upon ſuch a topic: But I feel the ſuperior effect of the admirable *ſilence* of Pliny—*Cum jampridemn ovitas omnis adulatione conſumpta ſit, non alius erga te novus honor ſupereſt quam ſi aliquando de te* TACERE *audeamus.*

Paneg. 55. 3.

THE END OF THE FIRST PART.

POU-ROU:

PART THE SECOND.

OF THE

PATHOLOGY

OF

PARLIAMENTS.

Non iis imperium Pelagi ſævumque Tridentem
Sed MIHI *ſorte datum!*

POLITICAL

PART THE SECOND.

OR A

PATHOLOGY

OF

PARLIAMENTS.

POU-ROU;

PART THE SECOND.

I.

WE have done with the PHYSIOLOGY of Parliaments, we now proceed to their PATHOLOGY: And here I am well pleaſed to obſerve, that the defects which are moſt inſiſted on by the popular demagogues, are rather imaginary than real ones. I think it, however, proper to obviate the former before I proceed to the latter, which are of all the leaſt attended to. This may be looked upon by ſome, as a meer loſs of time; in anſwer, I ſhall only aſk, what diſorder ſtands

Defects of Parliament, either pretended or real.

ſtands more in need of the phyſician, than that of a *malade imaginaire?* The demagogues ſeem principally to complain, that Oppoſition is not entirely triumphant at preſent: I am ſorry I cannot condole with them in the cauſe of their diſſatisfaction, ſince I look upon that circumſtance to be ſo eſſential to the ſafety of the State. I am ſtill better pleaſed with the openneſs with which they expreſs their diſcontent, as that is at leaſt, a manifeſt proof of their freedom. I own that the opinion thoſe gentlemen entertain with regard to oppoſition, is authorized by moſt of the popular theoriſts on Engliſh government. But I muſt aſſert that they are all equally miſtaken. It is not by oppoſition, but by union, that any government can be long ſupported. It is not the *chain of diſcord*, deſcribed by Homer, but his *chain of ſubordination* that ought to be adopted as a model for every State. It is a falſe idea, that becauſe a government conſiſts of three

Its pretended defects. 1ſt. Weakneſs of Oppoſition.

Il. 8 & 13.

parts,

parts, thoſe three parts muſt maintain a perpetual ſtrife. It does not follow that, becauſe a triangle has three ſides, thoſe three ſides ſhould be at variance. The Engliſh government is allowed to be a pyramid: The ſides whereof, are the temporal and ſpiritual Peers;—the baſis the Commons. I allow that the baſe ſupports the whole: But this does not prove it to be *the head*. That would be to invert the whole, and to begin the fabric like the projector in Gulliver, from the roof: On the contrary; the *faſcia* of this beautiful building that was deſigned to unite all the reſt, is the King: And, to leave this allegory, all the power that the reſt poſſeſs, as I have already ſhewn, can only proceed from the King. But theſe violent patrons of oppoſition, would reduce us to the ſtate of Chaos in Ovid, a perpetual jumble of contraries; to the Inferno of Dante, where fire and froſt were the only alternatives;

Blackſt. 1. § 2.

L. 32. 7.

—Sotto i piedi un lago che di gielo, &c.

to

to a bowl of their own favorite *beverage*, when ſtrong and weak, ſweet and ſour are ſo wonderfully united—a ſubject more ſuitable to their *ſenſoriums* than the repair of the State. I ſhould not object to the beverage, ſo it were not prepared by *their* hands: But I ſhould yet think it agreeably heightened by the addition of *royal*.

II.

THERE is a maxim that ought to be preſerved in letters of gold, *vis unita fortior*; a maxim that ought never to be forgotten by Princes or their people; ſuch was the principle that ſupported the glorious adminiſtration of Elizabeth; that Temple long endeavoured to reſtore to the divided councils of King Charles II; that Swift in vain recommended to the diſtracted miniſters of Queen Anne; that old Homer ſo long ago attempted to introduce to the diſunited republics of Greece; that Æſop enforced to his countrymen by the admirable fable of the *Faggot*.

Hume Stu. 1. 366.4.107.

It

It is in this ſafe and indiſſoluble bond of union—if demagogues would condeſcend to underſtand it, that the excellence of the Engliſh government conſiſts. The fear of acting *contra pacem domini regis* as it is the original principle of the conſtitution, ſo it has been at all times the motive of the beſt men. If ſome celebrated characters have maintained a contrary opinion, they were at beſt but men of *a party*. The Falklands, the Hydes, and the Cheſterfields were equally admired by *every* party. It is in this light alone, that Monteſquieu's beautiful panegyric on the Engliſh government can be conſidered as true, 'that it is the only 'government in the world that has for 'its propoſed object, religious and civil 'liberty.' I know that in compliance with the language of the times, even Blackſtone himſelf has aſſerted that the different eſtates of govornment were deſigned to be in perpetual oppoſition to each other: But no man was yet more

Blackſt. 1. c. 2.

 ſenſible

ſenſible of the fatal conſequences of ſuch an idea, if once reduced to practiſe them himſelf. No man was more ſenſible of the ruin it brought upon Rome—no man felt more deeply the numberleſs ills it entailed upon the State in the days of King Charles I; an oppreſſion, (as he confeſſes,) 'worſe 'than any it pretended to remedy!' We can only impute it to the ſame popular idea, that he has not omitted the trite alluſion of the mechanical powers which I have already ſhown to be ſo inapplicable. How ridiculous in thoſe to ſpeak of a ballance, whoſe only deſire has continually been a great *over-ballance!* How much more juſt as well as ſafe is the idea of the different powers of a good government, entertained by the late financier of France? 'There ought to be,' (ſays he to Dr. Price,) 'a coalition a fuſion of all the 'parts to render them one, homoge-'neous and permanent.' This is not a *union* of parties, but an *abolition* of them.—

them.—But what muſt be the inevitable end of a government wholly made up of checks and jarring intereſts? Let Swift determine from the analogy of ages—'that it is not poſſible the ſame 'cauſes can produce different effects 'among us, from what they did in '*Athens* and *Rome*.' Let preſident Monteſquieu determine from the ſame analogy—'that as *Rome*, *Sparta* and *Carthage* have loſt their liberty and periſhed; ſo the conſtitution of England will periſh, when the legiſlative power grows more *corrupt than the executive!*' How does corruption come to be thought neceſſary, but from this idea of oppoſition ſo erroneouſly blended by moraliſts, with their accounts of the Britiſh conſtitution? Were they to have adopted the happy *fuſion* of Monſ. Turgot; ſuch a practiſe need have never been introduced. And what is that ſtate of Parliament that threatens the final decay of Britiſh liberties? The excellent Sir Matthew Hale can inform

Conteſts, &c. 1. p. 53.

L'eſprit des Loix. L. 11. c. 6.

us;—'that this being the higheſt court
Of Parliament, 49. 'over which none other in the kingdom
'can have juriſdiction; if by any means
'a *miſ-government* ſhould fall upon
'it; The ſubjects of this kingdom are
'left without all manner of remedy.'
From comparing the above paſſages, we may perceive that the miſ-government intended by Sir Matthew Hale, can be no other than that mentioned by Swift; the ſame miſ-government that occaſioned the downfall of *Sparta*, *Carthage* and *Rome:* The præponderancy of the tribunitial power—So thoroughly was the humane Sir William Temple convinced of this great truth how eſſential union is to the permanency of any State; that he affirmed, 'that no good man can take part in
'the diviſions of his country, who
'knows and conſiders what they have
Mem. part 3. 171. 'coſt *Athens*, *Rome*, *Conſtantinople*,
'*Florence*, *Germany*, *France and Eng-*
'*land.*'

'*land*.' He might with equal juſtice have added *Spain*, *Sweden and Denmark*.

III.

THE remedies for ſuch a miſ-government are candidly allowed by Blackſtone to be out of the reach of the laws. 'The law cannot,' ſays he, 'provide an 'expedient to cure an evil which it will 'not even ſuppoſe;' in fact, the law muſt be ſilent before ſuch a miſ-government can arrive—*ſilent leges inter arma*. I hope our political diſeaſe is not ſo deſperate as thoſe great authors have imagined: I am, however, equally ſenſible with preſident Monteſquieu, that the worſt danger to be apprehended by ſuch a conſtitution as ours, is from the derangement of the *legiſlative*, rather than the *executive* department. I would therefore earneſtly entreat all thoſe who are at preſent ſo buſy about a parliamentary reform, to be cautious how they propoſe any further extenſion of the tribunitial power; if they do not

wiſh

wiſh to precipitate that diſorder, that I have ſo fully ſhewn to be the natural diſeaſe of our Parliaments. I will not yet ſay, that the conſtitutional ſocieties and others, do not conduct themſelves with a great appearance of moderation and candour: Unleſs we are to look upon them as thoſe falſe prophets among the Jews, who ſaid 'peace' when they meant no peace. However, let their moderation be what it may, they ſeem to want one requiſite to make their meetings legal; that whereas the ſupreme council of the kingdom cannot meet without the King's writ of ſummons: *They* expreſly meet by public advertiſement, to reform the conſtitution, without the ſmalleſt pretence to any legal qualification. Who ever before heard of ſuch things tranſacted in the broad face of day, and in defiance of an eſtabliſhed government? What can be expected from government but a juſt and ſteady oppoſition to the informality of their meetings, if

not

not to the principle of them? Mr. Locke and Dr. Price may authorize ſuch meetings; but can they enſure us againſt their conſequences? Even if they are allowable, can they be prudent or ſafe? They may perhaps alledge from Blackſtone, that there is a certain criſis againſt which the eſtabliſhed laws can make no proviſion—a truth which I am ready to allow—but are we arrived at that criſis?

IV.

ad. defective adminiſtration.

THE ſecond charge they produce againſt our parliamentary conſtitution, is that the adminiſtration of government is not ſo perfect as the theory. This has been alſo aſſerted by Blackſtone in compliance with popular opinion. And what wonder if, in ſo many centuries, after ſo many revolutions, it may have a little declined from its firſt bias? What human inſtitution can be expected not to deviate a little from the ſpirit of its founder? If this is a cauſe of change, I know not when

changes

would end: We would be even worſe than the Italian Rake

Molti avere un godere e cangiar ſpeſſo;

we ſhould change our government ſo often, we ſhould never have any; we ſhould be perpetually changing, only for the ſake of change.

V.

3d. imperfect repreſentation.

BLACKSTONE again aſſerts, that 'if 'any alteration might be wiſhed or 'expected, it ſhould be in favor of a 'more complete repreſentation of the 'people.' I have ſhewn that the people are, in general, ſufficiently repreſented by the returns made from the counties, at leaſt as far as the conſtitution deſigned for them; and I believe none of our reformers will pretend to aſk more: And what is this complete repreſentation of the people that he deſires? If he wiſhes to extend it beyond the line of *free* agents, the demagogues themſelves will hardly be mad enough to ſecond him; How ill does this

this agree with his own confeſſion; that there is hardly a free agent to be found, but is intitled to a vote in ſome part or other of the kingdom: If this is a truth, and I will not contradict ſo good an authority; what more can be deſired by the ſubject in our, or ought to be allowed in any, conſtitution? If he means to extend it in oppoſition to the landed intereſt: How will this agree with what he had juſt obſerved of the conſtitution, that it was its invariable principle, that a diffuſion of property ſhould be entitled to an encreaſed repreſentation? If he means to ſet it up againſt the influence of the Peers; why did he elſewhere allow it to be highly neceſſary, that they ſhould have diſtinct powers from the Commons? Why did he confeſs that if they were confounded with the maſs of the people, and like them, only had a vote in electing repreſentatives; their privileges would be quickly born down by the popular torrent, which would

effectually level all diſtinctions? What is this but to acknowledge in expreſs terms the conſtitutional influence of the Peers? If he intends it in oppoſition to boroughs, why does he lament their being decayed? Or if he means that the people ſhould poſſeſs a right to inſtruct their repreſentatives: Why does he always diſallow the *practicability*, as well as *legality* of the pretenſion? How inconſiſtent is he with the conſtitution! How inconſiſtent with himſelf!

VI.

4th. Oath not tendered to the Repreſentative.

In conformity to this idea that he entertains of a reform in repreſentation, he next looks upon it as a hardſhip, 'that oaths ſhould be multiplied 'upon electors, while the repreſentative 'is left perfectly free.' Upon this I muſt obſerve, that the electors oath is only deſigned to prove him a *free* agent: Whereas an oath tendered to the elected; extorting from him a promiſe to obey the inſtructions of his conſtituents;

ents; would be ſo far from leaving him free, that it would oblige him to be a *Slave* to the moſt corrupt and ignorant of the people. And how inconſiſtent would it be to deny to the repreſentative that freedom of opinion, that the electors ſo tenaciouſly aſſert for themſelves? Were not this to deprive him of the right of a conſtituent, while it pretended to qualify him to become a repreſentative? Nor can I ſee what new obligation would from thence ariſe to the rectitude of repreſentatives; ſince though an oath may be neceſſary to bind the leſs informed elector, the principle of honor, and the love of their country, ought to be a ſufficient tie to the more enlightned repreſentative; or where this fails to ſucceed upon ſuch, I fear an oath will be of little force. Blackſtone having alſo determined the laws made under the preſent reign againſt bribery, &c. to be ſufficient, if properly ſupported; there ſeems to be leſs need of multiplying

Blackſt. 1. c. 2.

3 Geo. 3. c. 13 § 4. 8.

oaths, than of enforcing the laws, to effect ſo deſirable a purpoſe. And however we have ventured to differ with the great author in politics; we will not preſume to diſbelieve him in his own department of laws.

VII.

5th. Boroughs.

UNDER the ſame idea of reſtoring a more equal repreſentation of the people; he ſeems as little favorable to the franchiſe of *Boroughs*, as he had been before to the freedom of the repreſentative. He complains of their deſerted State;—he complains of their multiplicity, as hoſtile to the popular repreſentation;—he complains of their being under influence. I ſhall now proceed to ſhew that none of thoſe arguments, even if true, can authorize an abolition of them.

VIII.

Litt. § 212. 4 Inſt. 274.

IT is allowed by the great Commentator, that even if they have no other ſanction, *Cuſtom* itſelf is a ſanction by the expreſs law of England: I will allow that it is an invariable maxim of

that

that law—*Malus uſus abolendus*, but that prohibition ſurely cannot extend to indifferent caſes, ſuppoſing boroughs to be wholly inſignificant, which is far from the truth. There are many cuſtoms as well as the franchiſe of boroughs, that are thought neceſſary to be retained, through the reaſon which originally eſtabliſhed them, has been long ſince forgot: For it is equally a fixed rule of the common and civil laws—*Non omnium quæ a majoribus noſtris conſtituta ſunt ratio reddi poteſt. Et ideo rationes eorum quæ conſtituuntur inquiri non oportet alioquin multa ex his quæ certa ſunt ſubvertuntur.* To make a cuſtom good it is therefore thought ſufficient, that it ſhould be prior to the memory of man. 2d. That it has never been interrupted. 3d. Or diſputed. 4th. That it is not contrary to reaſon; 'which is not,' ſays Sir Edward Coke, 'to be underſtood of *unlearned* reaſon, but of *legal* reaſon warranted by authority of law.' 5th. That it

Litt. § 212. 4th. Inſt. 274.

Ff. 1. 3. 20. 21.

Co. Litt. 113.

114. Litt. § 212.

5 Inſt. 62.

it is not a bad one:—I have already ſpoken of the antiquity of boroughs, and ſhewn them to be coæval with the conſtitution of Parliaments. I have equally ſhewn that they were never interrupted, but in a few inſtances, by the tyranny of Cromwell, or by the conſent of the boroughs themſelves. Nor have they ever been objected to, till of late that they have been found an inſuperable barrier as they were originally deſigned to be, againſt the tribunitial pretenſions. I have no leſs ſhewn that they are ſo far from being oppoſite to reaſon, that they originated in ſound policy. It remains to be ſhewn that they are not a bad cuſtom as is now commonly imagined upon this principle that they are under influence, as if influence itſelf was a bad thing and contrary to every principle of ſound government: So far is this from being the caſe, that it is never influence as ſuch that is cenſured, but *Undue Influence*. There is and always has

has been, an innocent influence of good offices, from which a Savage alone would wiſh to be exempt. That this kind of influence is allowed by the law; may appear from many caſes which I could quote, were it neceſſary. That it is equally allowed by the people; is evident from the complaints that they daily make of refractory repreſentatives; ſince they are perhaps ſo juſtly tenacious of this influence for themſelves: Why will they not equally allow it to the King over his royal boroughs? To the proprietors by burgage tenure over the reſt?—The remedy of all is equally obvious, and requires no violent reform to correct it. The King and borough patron need no longer return a diſobedient member: The people need not again elect a refractory repreſentative. Nor does undue influence itſelf require a more violent reform of Parliament; ſince, as I have already obſerved from Blackſtone, it can be ſufficiently reſtrained by law.

Corbet againſt Cabe, &c.

A charge

A charge of this kind can be traced back no farther than the thirteenth year of Elizabeth; the ambition of candidates not having ariſen ſooner, and then but in a ſolitary inſtance: And even were we to ſuppoſe a univerſal prevalence of undue influence; this is ſo far from being a juſt allegation againſt influence in general, that the *baſeneſs* of the one ſerves moſt effectually to diſplay the *excellence* of the other. Whence could men obtain an idea of the value of true religion, but by obſerving the horrors of ſuperſtition? Or of true patriotiſm, but from an experience of the fatal effects of tribunitial violence?—It is only the groſs and intereſted reaſon of the Tribunes and their followers, that could conceive *that* violence and patriotiſm to be the ſame. It is only the ſame groſs and illegal reaſon that could determine influence and *Undue* influence to be the ſame. It is the wiſe diſpenſation of the founder of all nature and art, that contraſts ſhould mutually illuſtrate

4th. Inſt. 23. Hale of Parl. 112. C. Jour. 10 & 12. May 1571.

luſtrate each other. But this does not prove light and ſhade to be the ſame; on the contrary, the noxious quality of ſhade only ſerves to prove the excellence of light: Nor till we can introduce ſome effectual reform that can exclude *Light* from *Nature*; will we be able to exclude *Influence* from *Elections*.

IX.

I may be aſked are not electors deſigned to be *free*? I anſwer, they are: But it is not a licentious and natural liberty (ſays Lord Coke,) but a legal one, influenced by all thoſe benevolent motives that are the cement of ſociety. To whom then ſhall the illegal and unlearned croud apply for direction but to their legal patron, who is deſigned to have the conſtitutional charge of them? To deny this to be liberty, would be to reduce all things to a ſtate even worſe than fataliſm. An agent under fataliſm may be neceſſitated to act right. Men is ſaid in a moral ſenſe

to be a free agent: But how undeſirable is this freedom, if it is only a licence to act *wrong*, and if to act *right*, is only an imputation on his freedom, and ſubjects him to the ridiculous ſlur of influence? I know it may be alledged againſt Lord Coke, that the preſent times are different from his: That the great body of the people are now enlightned, who were in his day under a cloud of ignorance. But what is this boaſted illumination? It is at beſt, as was juſtly obſerved by Hobbes, 'an imperfect light that only ſerves to 'miſlead them.' It is at beſt but a *Jack o' the Lantern* to their paths; it is far, very far, indeed, from themeridian ſun. I know what I aſſert, that the whole political *Encyclopedie* of the great maſs of the people; if no better, than that 'ſmattering,' ſo juſtly ridiculed by parſon Adams. And I will further aſſert, that this ſubject of all others is that wherein

wherein ſmattering is moſt dangerous: Mr. Pope's celebrated aphoriſm

A little learning is a dangerous thing

may perhaps be diſputed on *other* grounds;—in *this* it ought to be received as an Oracle.

X.

I have ſhewn that it is not only reaſonable, but eſſential to true freedom to be under that influence that is ſuppoſed to prevail in boroughs. I have now to ſhew that it is even eſſential to the Britiſh Empire, that borough influence ſhould prevail. Monteſquieu obſerves with wonder of the Britiſh conſtitution, 'that it has made 'the protection, even of foreign merch- 'ants, one of the articles of national 'liberty.' How much more then muſt it be ſuppoſed to intereſt itſelf in favor of natives? It is certain that commerce poſſeſſes a dignity in theſe kingdoms almoſt totally unknown to antient times, and to the other nations of Europe. This character was equally oppoſite

L'Eſpr. des Loix. 20. 13.

C. 4. 63. 3.

to the genius of the antient Romans; who from their manners, and even from their laws, appear to have conſidered it, no leſs than the arts, as a diſhonorable employment, and wholly unſuitable to birth, rank or fortune: But a contrary cauſe to that which proſcribed it at Rome has juſtly entituled it to our ſupport: As arms and Empire were the chief objects in Rome, ſo Britain from her ſituation and connections is naturally naval and *Commercial*. If the dignity of this order of ſociety is then peculiarly acknowleged by the conſtitution of Britain; how unjuſt would it be to deprive them of that franchiſe that is ſo originally their own? Yet it is allowed by Blackſtone, who is, however, in general little favorable to boroughs, that the electors of citizens and burgeſſes are the mercantile and trading intereſt of theſe kingdoms. What a fatal ſtroke would that abolition of boroughs be to ſo important an intereſt! And I will

B. 1. c. 2.

aſſert,

aſſert, if merchants themſelves are of contrary opinion, merchants themſelves are little acquainted with their own intereſt. If they are left as they ought to be in full poſſeſſion of this intereſt, they cannot employ it, unleſs to return to Parliament either themſelves or others. But though this uſeful order of men are juſtly conſidered as more enlightned and reſpectable than they could be in antient Rome; yet they are not wholly free from that diſqualifying *erugo*, that was imputed by Horace to the merchants of his day, and which is doubtleſs to be attributed only to a defective education. This acknowleged imperfection has had, in general, the natural effect of inducing them to follow the juſt advice of Virgil, with which I began

Pietate gravem ac meritis ſi forte virum quem, &c.

in chooſing ſome reſpectable delegate to ſupport that intereſt for them in Parliament, which they are incompetent to ſupport ſo advantageouſly themſelves:

This is, indeed, that influence againſt which the Tribunes ſo much exclaim; but it is a juſt, a natural, a neceſſary, and a conſtitutional influence:—Shall we deſtroy ſuch an influence at the inſtance of the Tribunes? Shall we not rather ſtrengthen it *againſt* them?

XI.

But it is objected by Blackſtone, 'that the members for boroughs bear 'a quadruple proportion to thoſe for 'counties.' In anſwer, I would be glad to aſk, can the mercantile intereſt in a commercial country, be too numerous and extenſive? But it is further objected by the learned author, that *deſerted* boroughs ſtill continue to be ſummoned,—as if any power upon earth had a right to abridge the King's inherent prerogative! As if the misfortune they have ſuffered by the decay of trade, ought to be ſtill further aggravated by the diminution of their franchiſe; an objection equally unconſtitutional and ungenerous! And which has been ſufficiently confuted by the

oppoſite

oppoſite and conſtitutional authority of Lord Mansfield, 'that decay does not 'invalidate a franchiſe.

Douglas, Caſe of Helleſton.

XII.

It may with great appearance of reaſon, be objected to me, and that even by thoſe who think themſelves friends to government; that the ſon of the illuſtrious Earl of Chatham, has declared himſelf in his admirable ſpeech in Parliament, May 7, 1783; deciſively againſt the corruption of boroughs: But if it be conſidered that I do not ſupport the abuſe, but the original intention of boroughs, not their undue influence, but their ſalutary and unavoidable influence.—If it be further conſidered that Mr. Pitt himſelf acknowleges 'that the Houſe of Com-'mons, which ſhould have no other 'purpoſe in view than a watchful at-'tention to the public good, was ſo far 'perverted from its rational and im-'plied inſtitution, that *party views* '*and principles of faction, and private* 'aggran-

'*aggrandizement* ſeemed to be then its 'material objects:' If in his late bill of reform, he only attacked corrupt boroughs—above all, if he never cenſured the royal ones—It muſt be allowed by every perſon who pretends to the leaſt candor, that Mr. Pitt and I are of the ſame ſentiment with regard to the principal defect of Parliaments; a ſentiment, which I have no doubt, but he will continue to ſupport.

April 18th 1785.

XIII.

And as we cannot be unacquainted with the opinion of the preſent miniſter, with regard to boroughs; we are ſtill leſs at a loſs to know what were thoſe of his illuſtrious father: I ſhall extract them from his ſpeech in the Houſe of Lords, January 22d. 1770. 'The boroughs of this country (ſays 'that wiſe patriot) may well be cal-'led the rotten parts of the conſtituti-'on: But in my judgement my Lords, 'theſe boroughs corrupt as they are, 'muſt be conſidered as a natural in-'firmity of the conſtitution: Like the

'infirmities

'infirmities of the body, we muſt bear 'them with patience and ſubmit to 'carry them about with us;—the limb 'is mortifyed, but amputation might 'be death.' We may here remark, that it is not boroughs as ſuch, but *corrupt* boroughs—not a natural decay, but a *mortification*, the great Patriot objects to:——Neither does he think it ſafe or neceſſary to preſcribe Dr. Laſt's *Radical Cure*, for a diſeaſe which he yet allows to be inveterate: How little attention then ought we to pay to thoſe quacks of the State, who are ſo zealous in preſcribing their deſperate noſtrums on every inadequate occaſion?- Perhaps boroughs *are* corrupt in the length of time, and *may* need amputation;—'but where,' (ſays Junius,) 'can we ſafely begin this amputation, 'and at what point ſhall we ſtop?'

XIII.

I ſuppoſe I have now made it ſufficiently appear to all unprejudiced per-

ſons, that decayed boroughs ought to be reſtored, not deſtroyed, if we would wiſh to preſerve the original lineaments of the conſtitution. And it is laid down as a rule by Lord Coke, that, however even the royal power may be permitted to *encreaſe* a franchiſe, it has no prerogative to *reſtrain* it. I am ſenſible that I ſhall have all the demagogues my violent opponents in this opinion: But the conſtitutional defect is not in the boroughs or their influence, but in the tribunitial ſpirit that maligns them: Even if a borough were totally diſmantled, I would not curſe the dead tree, for the memory of its wholeſome fruit; I would even ſo prefer it to many a poiſonous tree alive, to all the aſpiring brambles and thiſtles of the times! I have read of a *Bramble* that ſet up to be a King, but his pretenſions were treated as they deſerved: Nor do I know what ſhould diſqualify the royal prerogative, for the public good, to work a miracle in favor of this decayed tree,

4th. Inſt. p. 48.

And

And give to airy Nothing,
A local Habitation and a Name——

I would wiſh with Lucan, to preſerve it in honor of its Planter.

Stet magni nominis umbra!

I would hang it with wreaths, in memory of its illuſtrious proprietors: I would annually viſit it with the vows of Lelex in Ovid due to its acknowleged deſert and antiquity.

——Equidem pendentia vidi
Serta ſuper ramas ponenſque recentia dixi
Cura pii diis ſunt et qui coluere coluntur!

But whatever objection may lie againſt boroughs abſolutely decayed; the qualification bill ſufficiently 'ballances 'the aſcendant they have gained,' as is finally acknowleged by Sir William Blackſtone, 'by obliging the trading in-'tereſt to make choice of landed men'— and of this qualification, the member is to make oath and give in the particulars in writing at the time of taking his ſeat, by a wiſe proviſion of the Par-

Stat. 33. c. 20. liament of our late excellent King.

XIV.

BUT while we are ſo averſe to the influence of *Boroughs*, why do we not equally object to the influence in *Counties*, to which forty ſhillings freeholders, who make the great body of electors, are equally and neceſſarily ſubject? If influence is a fault, the contrary of which, I think, has been fully proved: Theſe are ſurely they whom we ought principally to object to.—A miſrepreſentation of counties, (if ſuch could be proved,) being ſurely an evil of more extenſive concern than a miſrepreſentation of inſignificant or decayed boroughs. But Blackſtone complains 'that the repreſentatives of boroughs are 'quadruple of thoſe from counties;—'therefore, the evil is ſo much greater:' I anſwer, the concluſion does not follow. The electors in boroughs are infinitely few in compariſon, therefore the injury is trivial in proportion.—

The

The learned author aſſerts, after a calculation of Biſhop Fleetwood, which I have before had occaſion to mention, 'that forty ſhillings at the time of the firſt inſtitution of qualifications for voters, was tantamount to twenty pounds at preſent, *therefore* the forty ſhilling freeholders were deſigned to be free from influence;' I reply, that the calculation is true as far as Biſhop Fleetwood is concerned, but the conſequence drawn by the learned knight falſe. For I would be glad to know what perſon poſſeſſed only of twenty pounds a year, can be conſidered as wholly free from influence! So manifeſt is it that it was never the intention of the founders of our conſtitution, to exempt either ſhires or boroughs from a due influence, and that the multiplicity of boroughs is ſo far from being an evil, that is juſtly ſtiled in the law of King Edward the confeſſor,—*ſumma et maxima ſecuritas per quam omnes ſtatu firmiſſimo ſuſtinentur*, &c. C. 20.

THE

XV.

5th. The want of a Ballot.

THE preſent method of electing repreſentatives is alſo thought to ſtand in need of a reform upon the authority of Harrington, by thoſe who wiſh to revive the antient method of voting by *Ballot*. But ſuch perſons do not ſurely remember, or at leaſt regard the fatal effects that invariably attended this method in every nation that adopted it, and the confuſion that muſt be its unavoidable conſequence in every powerful and populous State. A method that can alone be ſuitable to an infant Government: 'A method whereby,' (ſays Blackſtone,) 'the ſpurious can 'never be diſtinguiſhed from the real 'voter, and the moſt illuſtrious cha-'racter, would be ſubject to perpetual 'danger, from the moſt intriguing and 'infamous.' Such were the *Petaliſm* and *Oſtraciſm* of Athens and Syracuſe, and ſuch their inconvenience to thoſe States, untill they were finally abrogated.

Blackſt. 1. c. 2.

Diod. L. 11.

As

—As to the limiting the duration of Parliaments, the *ſine qua non* of Junius; I truſt the ſame ſalutary motives that occaſioned their extenſion, and which are recognized by Junius himſelf, will for ever prevent ſo fatal a reform.

6th. The Duration of Parliaments.

XVI.

THERE are many other defects imputed to the preſent ſtate of repreſentation, among the over-zealous or intereſted reformers, with whom the corruption of the elector ſeems leſs criminal, than the dignity of the elected: the undue influence, than due ſubordination; and the licentiouſneſs of the people than the liberty of the repreſentative.—They would wiſh to have the right of voting laid open to all, even the meaneſt of the people; even the moſt deluded ſectaries! A project that I have already ſhewn to be as oppoſite to our conſtitution, as it formerly proved fatal to Rome. To what cauſe can we impute the firſt ſymptoms of her

7th. Right of voting not Univerſal.

her decline, but to the tumultuous aſſemblies of the people? To what principle did ſhe owe thoſe tumultuous aſſemblies, but to the injudicious extenſion of the Roman franchiſe to all her remote conqueſts?—but to the introduction of *their* incompatible religions into her own? A fruitful ſubject of complaint to her ſatyriſts! Let me add, that, however we may impute tyranny to Cæſar; it was the violence of a popular Tribune firſt obliged him to that tyranny, firſt perſuaded him to paſs the Rubicon. What Couri was to Cæſar, Cromwell was to Fairfax: But Cæſar was more fortunate than Fairfax, if indeed any ſucceſs in ſuch a cauſe ought to be eſteemed fortunate! On the contrary, Cromwell united a Cæſar and a Couri in himſelf. A union as fatal to England, as it muſt have been formidable to any nation!

XVII.

Do we wiſh to revive thoſe deplorable times? Do we wiſh to adopt like antient Rome

Omnigenum deum monſtra et latrator anubis?

Let

let us extend the franchiſe of our country to ſectariſts of every kind;—let us unite ourſelves with their principles! This may be thought, by ſome, to reſemble the fuſion of Turgot, but I fear, even *that* fuſion would little apply to our purpoſe: The reſult would not be *Corinthian Braſs!* Nor would I, however, be underſtood to diſapprove of the repeal of the Penal laws. But I think all that can be ſafely done *has* been done for Roman Catholics: And I cannot but agree with Mr. Hume, that the witholding places of profit and honor, from non-conformiſts of every denomination, according to the practiſe of every wiſe government, cannot be juſtly conſidered as *Penal*, whatever our violent reformers may pretend; Theſe being in effect no other than the *Rewards* of *Conformity*, and to diſpoſe of them otherwiſe, muſt prove in the end as dangerous to our civil, as to our religious eſtabliſhment. Such have been the ſentiments of the

humane Lord Cheſterfield: But the reformers of this day are not all Cheſterfields, Juniuſes or Blackſtones.—To have followed *them* is reputation and ſatisfaction;—even to have contended with them, an object of ambition: To reformers of another kind it may be enough to ſay—

Non tali auxilio nec defenſoribus iſtis
Tempus eget———.

XVIII.

I HAVE done with thoſe *boaſted* and pretended defects of which, perhaps, it might be truly determined, that they are real beauties. For my own part, whenever I reflect on our excellent conſtitution, I am ready to cry out in the words of the Poet—

I read thee over with a Lover's eye,
Thou haſt no faults, or I no faults can ſpy;
Thou art all beauty, or all blindneſs I.

Even could the trifles I have enumerated, be conſidered as defects; there is yet a natural prejudice in favor of our native country, which is both allowable

lowable and juſtifiable.—A lover may be permitted to look upon his miſtreſs's ſquint as a beauty. A father may be equally blind to the natural infirmities of his ſon: But there are, perhaps, times when ſuch a partiality, however well deſigned, may be alike dangerous and criminal. And whoever contemplates as attentively as I have done our excellent conſtitution in its original form, muſt neceſſarily diſcover ſome real defects in its preſent adminiſtration, contracted in the progreſs of time, which may, perhaps, be well worthy the attention of thoſe who have in their hands the power of reform. Theſe we ſhall now proceed to conſider:—And in the courſe of this enquiry it will appear, that the Tribunitial power, as it has originated all the pretended allegations againſt our conſtitution, is alſo the cauſe of moſt of the real ones, and that it is in fact, itſelf *the Univerſal Evil of the State*. It will no leſs appear that thoſe faults, however real, are

Real Defects.

ſuch as would appear leſs conſpicuous, in a conſtitution leſs perfect.

" The ſmalleſt ſpeck is ſeen in ſnow."

XIX.

We have ſeen the King poſſeſſed of a royal, inherent, and extenſive prerogative, deſigned as a ſalutary check both upon the Peers and Commons.——

We have ſeen the upper houſe of the great council of the nation, filled with temporal and ſpiritual Peers, and the firſt ſages of the law, claiming equally with the Commons the important right of taxation.——

We have ſeen the lower houſe compoſed of *Sapientes*, the King's ſervants, and the independent gentlemen of the country;—accompanied alſo by a lower houſe of clergy in convocation, ſupporting no leſs than the upper a ſuitable dignity and duration. Such was the original condition of Engliſh Parliaments;—behold the changes they have ſuffered! and the cauſe of them!

and their Cauſe.

1ſt. A King

1*ſt.* A King abridged of his royal prerogative—even deprived of his life, *by the tribunitial ſpirit.*

2*d.* A temporal peerage impeached, perſecuted, diminiſhed, ſuffering the like calamities with their King—*by the ſame ſpirit.*

3*d.* A ſpiritual peerage equally oppreſſed upon various pretexts, for a while ejected from their due rank in the upper Houſe of Parliament—*by the ſame ſpirit.*

4*th.* Both of them excluded from their ſhare in taxation—*by the ſame ſpirit.*

5*th.* The confidential officers of the crown excluded from the Lower Houſe—*by the ſame ſpirit.* What muſt be the neceſſary conſequence, but their being removed to the Higher, to the inconvenient encreaſe of the peerage? Of which, though this ſpirit was the

firſt cauſe, yet it is never the laſt to complain.

6*th*. The ſubordinate dignitaries of the church, who were entitled to a ſeat in the lower houſe of convocation, excluded upon a ridiculous pretence from the Commons houſe—*by the ſame ſpirit*,—when it had finally failed of ſhutting out the Prelates from the Upper.

7*th*. The ſages of the law, for a time, excluded from the ſame houſe, *by this ſpirit*, even while yet in its infancy. This was to reverſe the Fable of infant Hercules. *He* was the diſtroyer of the ſerpents:—But *here* the young ſerpent was the deſtroyer. Such a Parliament was that of King Henry IV, which was properly denominated 'the *unlearned Parliament*;' and of which Lord Coke with juſt indignation obſerves, 'that they made not one 'good law!' I know that ſome politicians are ſtill to be found, who would not

6 Hen. 4.

4th. Inſt. 48.

not be averſe to ſuch an excluſion of lawyers, 'who of all profeſſions,' (ſays Dr. Swift,) 'ſeem leaſt to under-'ſtand the nature of government.' But this obſervation ought to be limited to the meer *Tyros* of the law, to whom alone it is applicable. Sent. Ch. of Engliſh Man.

8*th*. The duration of Parliaments, abridged alſo for a while to three years —*by the ſame ſpirit*. A convincing Proof, if there were no other, that the only object of this ſpirit is the poſſeſſion of tumultuous power! So violent and ambitious; ſo ignorant and illegal; ſo irreverent and unconſtitutional is this ſpirit!

XX.

SUCH have been the manifold inconveniencies of the tribunitial principle prevailing in, I might ſay, *over* former Parliaments; luckily ſome of them are ſince done away by the wiſdom of later ones. The three firſt have entirely

tirely ceaſed;—ought not the memory of them to be diſcontinued? The ſeventh and eighth have alſo been in ſome degree obviated. The fifth has happily not hitherto extended itſelf to Ireland. The ſixth is likely to remain an indelible blot upon Britiſh repreſentation. The fourth is no leſs eſtabliſhed by the acquieſcence of the Peers.

XXI.

I wiſh I could ſay the tribunitial ſpirit was entirely ceaſed in our Parliaments: The violent oppoſition at preſent made to unoffending boroughs, is alone a ſufficient proof that it is *not*. But though it is not wholly ceaſed, it is however, as I before obſerved, not wholly triumphant. To this circumſtance only we owe, if we are not yet curſed with an annual repreſentation, with a univerſal right of franchiſe, with an excluſion of the King's ſervants from the Iriſh Parliament, with an election by ballot, with perpetual bills of reform and an everlaſting confuſion!

I wiſh

XXII.

I wiſh I could even ſay, that the Tribunititial ſpirit was as quiet *out of doors* as it is *within*. This ſpirit in the elector, bears no leſs a relation to the ſame in the repreſentative, than that of a cauſe to its effect. For how can the body of *Repreſentatives* be ſuppoſed to be different from the body of *Electors*?—They are part of the ſame maſs; on the diſſolution of Parliament they return to the common body again. If the people are *wiſe*, they neceſſarily poſſeſs a proper influence over their repreſentatives;—popularity is ſo natural and univerſal a wiſh, that it cannot but be deſirable to all, to whom the purchaſe is not rendered too dear. Lord Cheſterfield deſired that he ſhould be known by the name of the *Iriſh Lord Lieutenant*.—If the people are *Fools*, they will yet retain ſome influence on their repreſentatives, and inſiſt upon more than if they were *Wiſe*; Nor will

they be wholly diſappointed—if they have not *real* influence, they will poſſeſs at leaſt the *appearance* of it: There muſt always be found ſome who will *pretend* to allow of their ſuperiority, ſome who will *ſeem* to ſubmit to their commands, ſome who will even rave about the *Supreme Majeſty* of the *People*, ſome who are ſo undiſtinguiſhing in their rage for popularity, that they forget the only true praiſe *Laudari a Laudato*—ſome who are even, perhaps, driven on by a falſe principle to the deſtruction of their country. What is this but *Inſanire ratione modoque?*—So dangerous and fantaſtic in its effects is this folly of the electors, a folly, which as it originates from them, ſo it returns to them with new and deleterious improvements from the fiery *limbec* of Tribunitial repreſentation. Such has been the cauſe in all ages of the worſt miſ-government of Parliaments: And if we are allowed to argue from a ſimilarity of effects to a ſimilarity of cauſes, we muſt

muſt be obliged to agree with Blackſtone, that it is only the ſame tribunitial principle which our anceſtors heard with horror and deteſtation, from the rude mouth of a Cade or a Tyler, that has ſince been ſo fatally applauded and embraced, when ſoftened and recommended by the eloquence, the pretended moderation, and the arguments, of a Sydney, a Milton, and a Locke. 'The corruption of the *People*,' (ſays Lord Chatham,) 'is the 'great original cauſe of the diſcontents 'of the people themſelves, of the en-'terprizes of the crown, and of the 'notorious decay of the inward vigor 'of the conſtitution.'

Blackſt. 4. c. 33.

Yet theſe were Yorkiſts, not Independents.

Speech, January 22d. 1770.

XXIII.

To this Tribunitial principle in the people, we are therefore to aſſign the principal defects that at preſent exiſt in our Parliament. This we are to alledge as a reaſon, that if left to themſelves, they would rarely elect ſuch

1ſt. *Optimates* or connections of the great

1ſt. Real Defect, Want of Optimates.

great, as are yet left happily in their choice, under an idea that this were to make the lower houſe a dependant on the upper: Not conſidering that it is to the interference of ſpirited Peers and Biſhops in different ages, the people are indebted for whatever privilege they enjoy. Or if *Optimates* ſhould at any time ſucceed in obtaining their favor, it is only by *ſeeming* to aſſume for the time a tribunitial ſpirit.

2d. Want of Proceres

2*d.* They would never elect *Proceres* or thoſe in honorable employ, of which but a few remain in their choice; thinking this were to make the lower houſe a dependant on the King; not conſidering that it is under the different charters and grants of their Kings that they derive thoſe privileges,—'that the 'diſpoſal of honors and preferments is 'the expreſs prerogative of the crown, 'which, however it may be a dange-'rous engine of power in bad hands, 'cannot be altogether aboliſhed with-'out

Hume, c. 4. 107.

'out the total deſtruction of monarchy,
'and even of all regular authority.'

3*d*. They would never elect *Seniores* or *Sapientes*, theſe being qualifications of which they are no competent judges. Among theſe, *Church-men* are excluded from their choice; and other reſpectable characters would not eaſily ſubmit to be their tools, or to be led by their demagogues. In this criſis of affairs equally inauſpicious to King, Peers and People; how happily did the qualification bill intervene to prevent the entire decay of all ſubordination, and the moſt undue returns to Parliament! By this wiſe proviſion they are limited to thoſe who are at leaſt independent gentlemen; yet of theſe they would take care, if left wholly to themſelves, (according to the opinion of Cade in Shakeſpeare 'that perſons who 'can read are dangerous to the State,') invariably to chooſe the moſt unqualifyed: Such *novi homines* as having no

3d. Exchange of Sapientes.

experience

experience from age, and no prejudices of knowlege to prevent their purſuing Their dictates, are ſo far from having filled any honorable department in the State, that they claim no other merit than a perpetual oppoſition to that government, which the people falſely conceive to be eſtabliſhed upon the ruin of Their intereſts, and which, if we may judge from the returns they make into Parliament, it would be their great deſire to diſſolve. It is true theſe gentlemen ſometimes deceive them, perhaps I might ſay *wiſely*: But even were it not ſo, what can they expect from 'Wells without Water,' but *Dryneſs?* From 'Clouds carried 'about by a tempeſt,' but *Darkneſs?* From 'a Houſe built on the ſand,' but *Unſtableneſs?* From 'ſounding braſs or a tinkling cymbal,' but *Hollowneſs?* Such are the neceſſary and pernicious effects of *Ephorical, Sanedrical, Tribunicial* and *Demagogical* power. Theſe are, it is true, gygantic evils; but they

are

are not the evils the people complain of, becauſe they originate from *themſelves*.—'In the multitude of *Counſellors* is ſafety,' but diſtraction alone can reſult from a multitude of *Fools*. What is all this but to reduce our auguſt Parliament, the wonder of the world, to the *Parliamentum indoctum* of Henry IV? and its admirable Statutes to the rude deſcription of municipal law, given by Aulus Gellius, *tacito et illiterato hominum conſenſu et moribus expreſſum*?—And to this acknowleged diſqualification of legiſlators, the inevitable conſequence of a tribunitial ſpirit in the elector, 'the 'law's delay,' and its deplorable confuſion are juſtly aſcribed by Lord Coke. 2. Rep. Pref.

XXIV.

SUCH repreſentatives as theſe, though they may be *Optimates*, are certainly not *Sapientes*: If ſuch would have been the forlorn condition of Parliaments, when wholly left to a popular return, even

even under the ſalutary reſtrictions of a qualification bill,—how natural, how juſtifiable was it for the Prince and Peers, to provide for the due conſequence of that great council to which the purſe of the nation has been entirely entruſted; at firſt, by the ſage inſtitution, and ſince, by a ſpirited ſupport of thoſe *Boroughs*, whoſe repreſentatives being virtually returned by the chief characters of the nation, might be under Their ſalutary controll, and make a neceſſary barrier againſt the ignorance at once, and violence of the people? To this truſt they generally appoint the practitioners of the *law*, who alone are competent to correct theſe inconveniencies, and are almoſt the only order of *ſages* who now remain in their choice.

Hume, 4. 268.

XXV.

for Tyros.

It may, perhaps, be juſtly conſidered as an objection to our preſent form of Parliament, that thoſe lawyers who are introduced by the borſholders, are

are commonly young ones; rather *Tiro Sapientes* and hungry adventurers, than *Sapientes* or *Seniores*. But our demagogues ought to consider, that this inconvenience, as well as the deplorable neceſſity of boroughs, and the excluſion of the reſpectable clergy, has originated from themſelves; ſince *Sapientes* or *Seniores* would be ill qualifyed to anſwer the intention of the borſholders in replying to the captious invectives of parliamentary Tribunes. If demagogues would but abate a little of their zeal, the intereſt of the people might be much better provided for, as well as the buſineſs of government more ſmoothly conducted; together with a great abatement of taxes, nor a leſs ſaving made in the public revenue, which are all at preſent unavoidably waſted, like oil poured out in a tempeſt, by a neceſſary, yet hitherto fruitleſs endeavour to pacify *the raging of the Sea and the madneſs of the people!*

XXVI.

4th. Sapientes in Speculation.

THERE are ſtill another order of ſages, who are ſaid to hold a conſiderable place in Parliament;—theſe are the *Sapientes in Speculation*, who having entirely failed in their own affairs, are at full leiſure to attend on thoſe of the State. Theſe are ſometimes returned by the borough patron, ſometimes by the people. Among theſe we may reckon ſuch pretended bankrupts, as having availed themſelves of a nominal inſolvency, ſtill retain a ſufficient qualification to ſecure a ſeat in Parliament. It is from theſe the public have moſt to apprehend, ſince they who are become ſlaves of their creditors, will be the readieſt tools to enſlave others: Some of them will even pretend to be demagogues; but let not the people truſt them. What reliance ought they to have on the prudence of ſuch a council? What can be expected from a Parliament of bankrupts,

rupts, but that they will repair their own decay by the bankruptcy of the nation? I am convinced that the admiſſion of ſuch members, has been a principal cauſe of the public diſapprobation of paſt Parliaments.

XXVII.

THESE are real grievances which the people have no right to complain of, ſince they have been alſo occaſioned by themſelves. There is another grievance, perhaps prevailing in Parliament, which, if it is allowed to exiſt, cannot be equally imputed to the people. I have already obſerved from Blackſtone, that repreſentation ought to be proportional to property: That this proportion by no means prevails in many inſtances, has been a popular topic with demagogues. To determine the truth of this matter would be beyond my purpoſe. But I will allow, that if ſuch a diſproportion, as is alledged, may be found be-

5th. Repreſentation not proportioned by property.

Cornwal, Norfolk and Middlesex, &c. the people have a just right to complain, as I think it is the only inconvenience I have heard of, that did not originate from themselves. To them alone we must also impute the violent attempts that are so often made to *aneantize* the duration of Parliaments.

XXVIII.

Ireland. MOST of the above real or pretended causes of complaint, are said to prevail equally—many of them even more extensively in Ireland: As we have already observed with regard to some of them in the course of our work. That country has been long subject to a variety of grievances, perhaps, partly from the peculiarity of her situation; partly in consequence of her connection with Great Britain. Later arriving at representation from the unsettled state of her affairs, her Parliament cannot be on one side as *perfect*; on the other as *corrupt*, as those of her elder sister.

Her

Her firſt councils were compoſed of the heads of Septs—from whence we can conceive no great idea of her original freedom of election. Such was her ſtate under King John; and even Stat. 14. in the time of Henry VIII, the members of her Parliament ſtill continued to appear as *Heads*, not as *Elective* repreſentatives. That Parliament alſo repreſented only the four counties of the Engliſh pale; were obliged to be convened by force; and were likewiſe left little to their own diſcretion, as may appear from the ſuperintending powers erected by the Statute. Their unwil- Intr. § 4. lingneſs to receive the Engliſh juriſdiction; has been referred by Blackſtone to a ſpirit of *Obſtinacy*; but may be more truly imputed to their natural attachment to the Brehon law, no leſs than to a miſapprehenſion of the Engliſh government, if we may credit another knight of no leſs reputation, who was long reſident among them, and has thus drawn their character: 'There is

'no

'no people under the ſun,' (ſays Sir John Davis) 'that doth love equal and 'indifferent juſtice better than the Iriſh, 'or will reſt better ſatisfyed with the 'execution thereof, although it be 'againſt themſelves; ſo as they may 'have the protection and benefit of the 'law, when upon juſt cauſe they do 'deſire it.' But this latter character, however it may be applicable to every age of the Iriſh nation; was yet written at a period when they had arrived to a conſiderable degree of Engliſh civilization, and when ſheriffs writs had begun to have currency over the kingdom. This ſalutary change happened under the mild adminiſtration of James I, to whoſe reign alone we are therefore to look up for a regular government of Ireland, and a *real* repreſentation. From that day until lately, her ſituation has been that of a ſubordinate—if not, of a conquered, country: Her inconveniencies in ſome reſpects greater than thoſe of her elder ſiſter; her ad-

Davis, p. 287.

vantages

vantages neceſſarily leſs; and as her condition has been in other reſpects leſs favorable, her repreſentation has been always more mixed. Thoſe who ſhelter themſelves from their creditors under the privilege of Parliament, are ſaid to abound there; ſome of them, even bankrupts of the loweſt trades, in direct oppoſition to the original character of Parliaments. This inconvenience ſhe owes principally to one cauſe, the perpetual abſence of many of her moſt reſpectable inhabitants; an inconvenience wholly unknown to England, which was long, and in vain complained of by Dr. Swift.—An abſentee bill has been often propoſed as a remedy, and with good appearance of reaſon. There are many obvious remedies that might be propoſed and muſt be each found effectual. Such delinquents might be conſidered as dead in law, like the Monks, and thus diveſted of their poſſeſſions. Some Kings of England would have conſidered

civiliter mortui. 2. Rep. 48.

dered the latter as forfeit to the crown by ſuch a dereliction, and taken immediate poſſeſſion in conſequence: Yet perhaps, no remedy can ever be deviſed, that will not be inimical to the liberty of the ſubject—A ſimilar objection lies againſt the non-reſidence, of repreſentatives in their counties; which, though illegal, it has been found equally impoſſible to prevent. *Faſhion* would be the eaſieſt remedy; perhaps non-reſidence, at ſome remote period, may ceaſe to be the faſhion. Perhaps alſo, the ſuperior ſervice our *Magnates* may have it in their power to do their country, by reſiding at the ſeat of government, ought to be looked upon as an over-balance to this great inconvenience.

XXIX.

ANOTHER cauſe of the mixt repreſentation in Ireland, is the want of a qualification bill: I would wiſh that if ſuch a bill ſhould be at any time introduced, it might fall into the hands of

ſome

ſome of thoſe *Sapientes*, who may be qualifyed to model it properly, and have weight to carry it through the houſe; not into thoſe of ſome popular Tribune whoſe name may damn it, inſtead of ſupporting it—Of a legal *Tyro* who it better qualifyed to perplex matters, than to aſcertain them—Or of a beardleſs bankrupt county Baſhaw, (if any ſuch there be) whoſe ſole proof of legitimacy is his outgoing the degeneracy of his anceſtors; who waſtes in taſteleſs extravagance, the fund that ſhould diſcharge his juſt debts; whoſe only pretence to Iriſh hoſpitality are electioneering entertainments given by his agents; who is acceſſible to no debts but thoſe falſely called *Debts of Honor*; and to no company but electioneering jobbers: who builds a palace in the country, at the expence of credulous traders in town; who travels to town during *privilege*, to be out of the power of his country creditors; who would return to the country in a *Balloon*, to

be out of the reach of his city creditors, were he not reſtrained by want of *ſpirit*; who keeps no houſe in town, leaſt his effects ſhould be in reach of his creditors; who infeſts the halls of thoſe who receive him there, by a perpetual levee of creditors to whom he is always denyed; who keeps an army of ſervants to defend him from his creditors, who, while they are employed to abuſe Them, are only laughing at Him in their ſleeve: Who thinks himſelf authorized to add outrage to robbery, and to throw a ſtain on the glorious name of repreſentation, under the cover of *Pretended Patriotiſm*, and the ſanction of privilege of Parliament! —An Iriſh acquaintance of mine had once a juſt demand againſt one of theſe Pſeudo-Patriot-Baſhaw-Country Repreſentatives; in a courſe of ſeveral years he was obliged to make upwards of five hundred perſonal and other applications, in vain; he obtained above fifty appointments to an hour, which

were

were always litigiouſly evaded; till at length having ſufficiently proved his falſehood, as well as diſhoneſty, by obliging him to declare *in perſon*, that *he was not at home*—neceſſity conſtrained him to inform the Baſhaw, 'that *that* privilege of Parliament, 'which he depended on, could alone 'ſhield him from the juſt reſentment of 'a freeholder, and that otherwiſe he 'dared not behave in ſuch a manner.'—If he reads this he muſt recollect the tranſaction; and if the matter is not ſpeedily adjuſted, I ſhall have authority to publiſh his name in the next edition, as a *Pharos* for the caution of all future navigators on the dangerous ſea of Parliamentary credit in Ireland! I might aſk—do not theſe things require a *Reform?* but that I fear to be taken for one of her *Pſeudo Patriots*.

XXX.

To continue my *Critique* upon that country: The laws of England at preſent prevail there, but unfortu-

nately for her, they are far from being enforced in the ſame manner. The riot act is wanting there, which would much contribute to her peace. Miniſterial dependants, and great numbers of ſtate penſioners are alſo found in her Parliament. The *former* I think allowable, as they aſſiſt the motions of government.—The *latter* I have already in general reprobated. Boroughs are more numerous in proportion to counties; conſequences theſe, perhaps, of the ſituation of that country, which is ſuppoſed to ſtand more in need of authority and influence, as it lies more remote from the ſeat of government. The boroughs are alſo more under influence, many of them not poſſeſſing by charter more than thirteen electors. The ſingularity even of boroughs *wholly deſerted*, exiſts there; which can only be owing to the defect of population, and which a few years might eaſily reſtore.—Yet that country ought to conſider, that if it is expoſed

to

to inconveniences from its ſituation, its taxes are proportionally leſs: That, if it has diſadvantages from its connection with England, it has alſo received unſpeakable advantages—the right of legiſlation and taxation, the benefit of its own laws, and a free trade.

XXXI.

I KNOW it has been a received opinion, that England was terrifyed into her conceſſions to Ireland. Away with the thought; even were it ſo: Ireland,' (ſays Lord Cheſterfield) 'can 'never be a gainer by quarrelling with 'England, however juſtly.' Nor can England ever be over-awed, but by a power her ſuperior at ſea. I will not aſſert, that England has always acted to that nation with the enlightned policy of antient Rome; or with the ſame generoſity which ſhe herſelf diſplayed to Wales: But I will venture to ſay, that whatever cauſes Ireland may have formerly had to complain, they are all of late

Lett. to his Friends. B. 3. Lett. 47.

late done away, or on the point of being ſo—if our bright dawn ſhould not be over-caſt by the dangerous ambition of demagogues! And, if a reform of Parliament is neceſſary no leſs in Ireland than in England, they have every thing to expect that is poſſible or reaſonable, from the unexampled ſpirit and undiſguiſed truth that characteriſe THE SON of the Marquiſs of GRANBY, her preſent amiable viceroy. Under many of his predeceſſors; ſhe felt herſelf in the ſituation of Ajax in Homer: She long wiſhed in vain for light—Δος δ' ὀφθαλμοισιν ἰδεσθαι—

Il. 17.

She wiſhed only to ſee her enemies face to face, who were ſkulking in darkneſs; ſhe expected not favor. Her ſituation is *now* very different indeed! She has nothing to fear from the Duke of Rutland, but every thing to hope:—He is too generous to be her enemy, and too honeſt to deceive her. She might juſtly apply to him that beautiful queſtion of Horace:—

Incorrupta

Incorrupta fides nudaque veritas
Quando ullum inveniet parem?—

But, though he is not her enemy, he is at the ſame time too magnanimous to be the ſlave of her demagogues!

XXXII.

AFTER all, a parliamentary reform is far from being the only one which that country ſtands in need of; if we will credit a former viceroy, whom ſhe herſelf looked upon as her beſt friend. 'All the cauſes,' (ſays the elegant Lord Cheſterfield) 'that ever 'deſtroyed *any* country, conſpire to 'ruin Ireland;—a premature luxury 'out-ſtrips her riches, which in other 'countries it only accompanies; a total 'diſregard to the public intereſt, both 'in the governed and governors; a 'profligate and ſhameleſs avowal of pri-'vate intereſt; a univerſal corruption 'both of morals and manners'—When we add to all this the unaccountable paſſion 'for governing the govern-'ment,' which has been long epide-

ib. Letter 41.

mical

mical there, we ſhall have completed a picture as like as it is lamentable. If things ſhould continue a few years more at this rate, what can they expect but to be obliged to aſk with the old woman at Amſterdam '*ou demeure le 'ſouverain?*—But *this* there is no reaſon to apprehend under her preſent ſpirited governor. We ſhall conclude this head with the words of the ſame elegant nobleman, whom we have ſo often quoted with regard to that country. 'Hibernian ſpirits are exceeding-'ly inflammable—lenients and refrige-'ratives are, therefore, the only ſuita-'ble medicines.' Had ſuch a wiſe conduct been purſued on a late occaſion, we had not at this day loſt America:—So, eſſential is the *ſuaviter in modo*, even to the ſucceſs of the *fortiter in re!*

ib. Letter 39.

XXXIII.

Scotland.

'PERHAPS,' (ſaid Mr. Wilkes, ſpeaking of himſelf) 'in my plan for the im-'provement of repreſentation in Eng-'land,

Speech, March 21, 1776.

'all moſt the natives of Scotland may be 'included, as they ſeem in general to 'have migrated to our warmer, and 'more fruitful climate. I am almoſt 'afraid that the forty-five Scottiſh gen-'tlemen among us, *repreſent themſelves*,' Even if this ſarcaſm were true, it were yet no grievance, as far as repreſentation is concerned, ſince in ſuch a cauſe, they undoubtedly *would* have a right to repreſent themſelves; yet this nation is deeply concerned in the ſubject of reform, if we are at liberty to judge from her complaints. Some of her cauſes of complaint, ſhe has in common with England and Ireland—ſome of them wholly oppoſite, but in general equally inconſiſtent; and often unreal. She has, in common with them, the deſire of extending the right of franchiſe, beyond the limits allowed by the conſtitution for wiſe reaſons, 'on account of the multitude and cla-'mour of communes, ſimple perſons, &c.' Theſe it is true, may be called

Wight, Law of Parl. p. 389 Doug. Caſes, &c, 2. 108.

temporary reaſons, ſimilar to thoſe that occaſioned the prolongation of Parliaments, but, though *temporary*, they are ſuch as have never ceaſed ſince.—She complains that her burgeſſes are not merchants, as they were appointed to be by the laws of the convention of boroughs; &c. *which are now obſolete*,
D. ib. 102. unleſs, perhaps, for Edinburgh, which was excepted at the act of union.——She complains that they are not reſidents, as they were deſigned to be by the original warrant for poll elections; *which is alſo juſty obſolete*, 'as it would 'have been the means of filling the
ib. 1. 165. 'Parliament Houſe with men below 'the employment:'—So it was wiſely determined by the court, at the aſſizes of Surry, 20th July, 1681, before Sir Francis Pemberton, Chief Juſtice of the King's Bench.——She complains that the delegates for boroughs, &c. do not follow implicitly the commands
ib. 2. 106. of their conſtituents as they formerly did; that is, *that they are not Slaves, as*

it

it ſeems they were formerly ſuppoſed to be. The unreaſonableneſs, no leſs than the falſhood of this complaint, ought to be evident to every impartial inquirer; ſince, if they formerly did not deviate from her inſtructions, it was only becauſe ſhe did not formerly preſume to inſtruct them.—She complains of improper wadſets and naked ſuperiorities to the great encreaſe of influence at elections.—This however, ſeems allowable, *if comparative property ought to have it weight.*—She complains, that honorary non-reſident burgeſſes are allowed to vote at the election of delegates. This appears a more plauſible cauſe of complaint, if we will only allow that influence is a juſt cauſe; which yet I have anſwered before—As to reſidence: This alſo ſeems more neceſſary to the voter, than to the repreſentative: Yet it would be hard to require reſidence on account of a trifling vote from thoſe whoſe intereſt leads them to live elſewhere:—If England or

ib. 2. 175. 4. 94. 2. 108.

Ireland complain of too great a proportion of boroughs; ſurely She has not the ſame reaſon to complain; ſince, though her royal boroughs may be numerous, they are none of them ſingly repreſented—being divided for that purpoſe into fifteen diſtricts; each diviſion ſending only one member; ſo that her borough repreſentation amounts but to one third of her entire number of members in the Engliſh Parliament. Wales has alſo a ſimilar advantage by the Statute of Henry VIII; but has too good ſenſe to complain of it as a grievance.—She complains alſo, in common with the reſt of the Britiſh dominions, of her decayed boroughs:—A complaint in which, however ſhe may be authorized by the excellent Lord Chancellor Talbot; to omit Price, Poſlethwaite, Burgh, Locke, &c. it is yet an uncontrovertable fact, allowed even by the demagogues, that this nuiſance (if it is really one) cannot now remain in any great ex-

D. 2. 105.

tent,

tent, no leſs than twenty-two of them which were repreſented in the time of King Edward I, having long ſince ceaſed to ſend members to Parliament: As may appear from the writs ſtill extent in the Remembrancer's Office in the King's Exchequer. I own I am far better pleaſed they fell ſo, than by the dangerous amputation recommended in Horace.—*Inutiles ramos amputans Feliciores inſerit*—She alſo complains, I ſuppoſe, of a partial repreſentation. Let her turn to antient Rome, and there behold the fatal conſequences of a univerſal one; *even by the confeſſion of Mr. Wilkes.*—Her Peers are elected by ballot: A method which I have had already occaſion to criticize upon. This, though at preſent much deſired in England and Ireland: Perhaps may be, however in Scotland, no leſs than in Rome of old, and at preſent in Venice—a cauſe of juſt complaint. As to the qualifications there: Since the year 1681, the qualification for elect-

Speech, ib.

Ann. c. 23.

D. a. 175.

tors

ters is the ſame with that eſtabliſhed
ib. 2. 171. in England and Ireland. The like qualification alſo, and no more, is required for her commiſſioners—an inconvenience which ſhe at preſent ſuffers in common with Ireland; yet, perhaps, does not complain of it as ſuch: She and Ireland were put upon the ſame footing of repreſentation by Cromwell; perhaps it were well for the latter, had ſhe continued ſo ſtill. The proportion the former bears to England, is in point of repreſentation; about one thirteenth—in point of taxation; one fortieth penny.

XXXIV.

Antient and Modern Demagogues compared.

By the above detail it muſt appear, how unfounded moſt of her complaints are: And from a retroſpect of all the cauſes of popular complaint in theſe kingdoms, it is no leſs manifeſt, how very far they fall ſhort of thoſe which excited the Tribunitial ſpirit in Rome; the principal grievance of the former being only the influence neceſſarily attendant on *juſt* property;

that

that of the latter, the influence connected with property, *unjuſtly* obtained; as muſt be ſufficiently evident to any perſon who but ſlightly peruſes their hiſtory. The nobles had forcibly deprived the people of their juſt ſhare in the conquered lands, and would not even ſuffer them to earn a poor livelihood by their cultivation. This is the account given by Salluſt of the ſufferings of the people, and the effect they had upon them. *Ubi eos paulatim expulſos agris, inertia atque inopia incertas domos habere ſubegit cæpere alienas opes appetere, &c.* Such were the provocations that excited, perhaps juſtly, the ſpirit of the GRACCHI. Theſe were the moſt accompliſhed and unblemiſhed characters in Rome, qualifications that are rarely found together in any country. Yet a *Senatu deſciviſſe* was thought by ſome of the beſt judges and greateſt perſonages of their own age, to be more than a counterbalance to their other qualifications.—

Vell. Pat. L. 2.

2d. Epiſt. to Cæſar.

Cic. Or. de. Har. reſp. c. 19.

Some

Some of our preſent reformers are confeſſedly *Gracchi*; no leſs in virtues than accompliſhments:—Why ſhould they be alſo *Gracchi* in their only defect? I acknowlege the *Gracchi* have been in every age no leſs ready to retort the charge of faction upon their Opponents; but ſuch a charge evidently confutes itſelf———.

Quis tulerit Gracchos de ſeditione querentes?

XXXV.

Legiſlation and Taxation.

An enquiry into the defects of Parliament would be incomplete; were it to be wholly ſilent upon Legislation and Taxation. It is an opinion founded upon irrefragable (though modern) authority, 'that *Repreſentation* and *Taxation* are *reciprocal*.' But however, this opinion may have for that reaſon grown into deſerved popularity of late: I will yet venture to affirm, that it has been wholly and fatally miſunderſtood. To this only we owe the preſent rage for Parliamentary innovation—to this the recent

loſs

loſs of America. It is true, that in the affairs of the county Palatine and city of Durham, Sir Thomas Strictland gave it as his opinion, 'that being taxed, it was but reaſonable it ſhould 'have repreſentatives.' It is no leſs true, that Lord Camden maintained on a remarkable occaſion, which I have already taken notice of, 'that repreſentation and taxation were inſeparable.' But neither of theſe aſſertions go to prove that every individual who caſually pays taxes ſhould therefore have a vote—an idea that, however, it may appear ſplendid in ſpeculation, however it may be practicable in riſing or inſignificant States, muſt for ever be not only impracticable, but fatal, to an adult and a flouriſhing one. Nor was this conſidered either as a conſtitutional defect, or as a grievance by our wiſe anceſtors; not is it yet univerſally looked upon as ſuch. The county and city of Durham, paid ſubſidies above fifty years before they came

26th Mar. 1668. Grey's Deb. 1. 110.

to be repreſented.—The city of Ely is not yet repreſented; yet pays taxes. A variety of other reſpectable towns, though equally taxed, are unrepreſented. The inhabitants of the Iſle of Man have been lately ſubjected to pay cuſtoms and duties, though they ſend no members to Parliament; yet theſe are not, therefore, heard to murmur. So true is it, that thoſe are not always the readieſt to complain, who appear to have the moſt occaſion: Neither does the juſt plea, formerly alledged againſt the King's aſſuming the right of taxation ſolely of his own authority, at all avail againſt the ſame power, when exerciſed by the authority of Parliament. Such was even the ſenſe of the republican party in the civil wars.—The ordinances of 1642, and 1646, while they exempted the remote colonies from taxation, by the ſingle authority of Parliament, manifeſtly, though tacitly, aſſerted its right even over *them*. The latter of thoſe ordi-

Sheffield, Manchester, Birmingham, Leeds, &c.

nances,

nances, however, excepted *Exciſe*.— The ſame was the ſenſe of the convention Parliament of 1660, who, alſo aſſerted this right by a grant of Tonnage and Poundage, which was ſtill further enforced by an act in the reign of King William to the ſame purpoſe. 1696. Not to mention the duties laid on, in 1672, by the ſame Parliament that propoſed the bill of excluſion—or thoſe propoſed by the whig miniſtry in Qeen Anne's reign, which were only prevented then by the Tories coming into adminiſtration; and which have been realized ſince—a manifeſt proof among many others I could adduce, that thoſe who advance a contrary idea, can be no better than *Tories*.—— During all this time there was no complaint heard among the colonies, a collateral proof, that it can have only ariſen of late in conſequence of miſapprehending the enlarged ſentiments of thoſe great oracles of legiſlation whom I have already quoted, and

might have eaſily removed, did they deſire to be ſet right, by only an inſpection of *their own charters*. If this is a decided truth, even with regard to the colonies, how much more muſt it be ſo with regard to the King's natural ſubjects?

XXXVI.

NEITHER have the ideas of our modern republicans been leſs erroneous, with regard to *Legiſlation*. They look upon it, 'that the obedience of every 'individual is not due, were every individual is not numerically repreſented; that a country that is ſubject to 'the legiſlative department of another 'country, where it has no voice, muſt 'be in a ſtate of ſlavery: That thoſe 'who on a late occaſion addreſſed the 'Throne, to maintain the ſupremacy 'of Great Britain, preſented *bloodthirſty Petitions*; and that in every 'free State, *every Man is his own Legiſlator*, and has a right to reſiſt any 'power that attempts to deprive him

of

'of this right.' Such are the sentiments and words of Dr. Price. How fatal would it be for the public peace if they were generally adopted—How opposite and irreconcileable would the opinions of individuals be found! How irrational, ignorant and illegal! How impracticable to collect them! How ruinous to realize them! How much safer to attend to the decisions of those who were no less moderate in their principles, than they were confessedly enlightned and patriotic in their object? Let us rather adopt the declaration of the act of his present Majesty's reign, passed when the excellent Lord Rockingham presided at the treasury: 'That the King and Parliament of Great Britain *have* authority to bind the colonies:'—Let us believe with the great Lord Chatham, 'that the authority of Great Britain is supreme over her colonies, though not in the same sense as it is over Great Britain:'—Let us allow with Montesquieu, 'that while 'she

On Civil Liberty, p. 75.

'ſhe keeps the body politic in a ſtate
'of dependance; ſhe makes the indivi-
'dual completely free!'—Let us main-
tain with the divine Plato, that the beſt
government is the empire of *Laws* and
not of *Men*—that every individual of a
free State muſt be a ſlave to its laws,
or forfeit the benefit of public order;
and that, in fine, ſuch a ſlavery is the
only deſirable liberty:—And let us
learn from the examples of all antient
and modern republics, that the legi-
ſlative *Furor* in individuals is the worſt
calamity that can befall a State. It is
true, that Junius, while he liſtens to
Lord Chatham 'with diffidence and
'reſpect;' yet declares that it is 'with-
'out conviction or aſſent:' Yet ſurely,
where *Junius* liſtens with *diffidence*, it
may be allowable, or even prudent, in
others to acquieſce: All civilized na-
tions have ever exerciſed ſupreme do-
minion over their colonies; nor has
the right being *often* called in queſti-
on; nor *ever*, but *unwiſely*. The

Americans

Americans were, fatally for themſelves, no leſs than for us, of another opinion. —The diſpute is however, over with America:—Why ſhould we madly revive it at home by a fruitleſs quixotiſm of reformation?—Would it not be wiſer to adopt the ſober advice of St. Paul, in leaving ſuch *unprofitable* queſtions, becauſe they only engender ſtrife? —and to ſubmit to thoſe powers that are appointed to have rule over us, for the advantage of the good, and the terror alone of evil doers?

XXXVII.

HAVING premiſed theſe general cautions; I ſhall now proceed to make ſuch remarks as occur to me upon the preſent ſtate of our *Legiſlation* and *Taxation*; though I will not pretend to diſcover any glaring defect, either in thoſe laws or accounts which have ſtood the teſt of ages, and in which the Marqueſs of Rockingham and his able coadjutors, ſucceſſors, and predeceſſors have

have ſeen no neceſſity of a violent reform. I wiſh I could however ſay, that the ſtate of either were wholly without exception. As I have already obſerved, that the laws in general are too *complex*; ſo the taxes, perhaps, are in ſome inſtances too *heavy*.—Our Financiers ſeem to agree with Mr. Gibbon, that 'penury is productive of 'ſobriety and virtue,'—and our legiſlators ſeem to have been long of opinion, if we may judge from the many inaccuracies in our Statutes—'that ig-'norance is the mother of obedience, no leſs than of devotion;'—yet perhaps, the knowlege of plain laws

their Defects.

Douglas paſſim.

"That he who Runs might Read,"

would be a far ſafer principle of legal obedience than their obſcurity, or even than the ſtrange perfection Lord Bacon flatters himſelf, he finds in their prolixity—and the proſperity of the ſubject (would our rulers only think ſo) might be found a better pledge for the ſupport

of

government, than his inability or diſcontent: For what can be expected from that neceſſity of the Poet

Clavos trabales et cuneos manu
Geſtans abenâ———

but ſome violent attempts at home, or deſperate emigrations abroad, ſuch as have half depopulated Ireland of her artiſts and laborers, and filled her with ſelf-commiſſioned *Volunteers*; not as they ought to be, under the controll of the conſtitution, or under the command of the King; and which, therefore, muſt expect to be conſidered by all the friends of government—(I hope however, without cauſe,) as equally inimical to both?—Thoſe unhappy emigrations, it is true, might be prevented by law, according to the practiſe of the old Carthaginians—an experiment, which was alſo fatally made in the time of King Charles 1ſt—but would it not be far better to adopt, with Lord Cheſterfield, ſuch lenitives as might remove, or at leaſt palliate their

cauſe, than endanger the peace of the State, by a fruitleſs endeavour to oppoſe natural and unavoidable conſequences? or become acceſſories to its ruin, by not providing againſt them?—That ſuch evils abound, eſpecially in Ireland, cannot but be known to every one: Nor can they exiſt there without a cauſe:—And that perſon ought to be looked upon as the friend of the ſubject, no leſs than of government; who will undertake to aſſign the true one.

XXXVIII.

Sall. 2. Ep. ad. Cæs.

It is a invariable truth, that has prevailed without exception, from the days of Catiline to our own; and which ſeems to have been well underſtood by our Norman anceſtors: 'That thoſe are univerſally the beſt ſubjects, who have the beſt ſtake in the State.' There is no ſubject whatever ſo inſignificant (according to a calculation of Mr. Addiſon,) as not to be of ſome benefit to the State. There is no ſubject, therefore, that ought not to feel ſome intereſt

tereſt in ſupporting it. Allow the ſubject thoſe advantages he is ſo juſtly intituled to: He will not look after unſafe or precarious ones. Eſtabliſh the proſperity of Ireland, which now alone remains to the empire

Spes unica reſtat Iuli

you will be ſecure of her allegiance, and of an encreaſed revenue. It is ridiculous to ſay, that this will diminiſh Great Britain; the contrary is the truth, that it muſt finally aggrandize her.

XXXIX.

For this deſirable purpoſe, it were neceſſary that ſuch a ſyſtem of taxation ſhould be adopted, as would encourage the artiſt, not oppreſs him; enrich the laborer, not baniſh him. The induſtrious Moors were once baniſhed from Spain: This might have been conſidered as a *Reform* at that day; but it was ſuch a reform as Spain has never recovered from ſince: Could we be made wiſe by ſo fatal an example, the

benefit would largely accrue to ourſelves. The lands would thus unqueſtionably obtain a better price; when there were more, and better, tenants, and purchaſers.

XL.

AFTER what I have already declared, our governors will not miſtake me for a Demagogue; even were I to advance one ſtep further. Under this expectation I will venture to pronounce with Doctor Swift; that if the ſecurity of the State is beſt provided for by the happineſs of the people: That ſyſtem of taxation, too long continued in theſe kingdoms, whereby an extravagant ſubſidy levyed upon the public goes only to defray the intereſt of an unneceſſary and inſuperable national debt, will be found in the end, no leſs fatal to Great Britain and Florence, than it was of old to Macedonia. I acknowlege the preſent time furniſhes, both in public and private, illuſtrious precedents, to keep ſuch a ſyſtem in countenance.

Anſwer to the Criſis.

tenance. But does *Multiplication* palliate a miſ-calculation? Does it not on the contrary, make it more glaring and fatal? I will equally allow, that it is eaſier for the public to pay an annual intereſt, however large, than the principal.—I will yet affirm, that That proceeding, which would be madneſs for a private gentleman to purſue upon a ſmaller ſcale, cannot be wiſdom upon a large one.—Such a conduct as would occaſion private bankruptcy, muſt prove in the end, national ruin. The propheey of the Poet will for ever hold true——

Hinc ære vorax, avidumque in tempore fœnus!
Hinc conceſſa fides, et multis utile Bellum!

Nor ſhall even the great authority of the right reverend Patron of this ſyſtem; ever reconcile me to his opinion—And as to that myſterious veil, that it is the faſhion at preſent to throw over politics: let not our rulers imagine that any artifice They can adopt, will ever

Bp. Burnet.

ever prevail upon the people to prefer a *Stone* to *Bread*.

XLI.

But if ſuch arts *are* indeed become neceſſary; if an inſuperable taxation is indiſpenſible to the permanency of the government, according to the idea of the great Prelate—to what cauſes are we to impute it? To what, that the peace of the State can only be ſecured by the oppreſſion of its ſubjects? To what but to the ſame cauſe that obliged Cæſar to paſs the *Rubicon*—That obliged Cromwell to accept the *Tyranny*—That obliged the immortal William to deſert the party that firſt invited him over.—Alas! the cauſe is too obvious—Demagogues you need not aſk it of *Me*—Behold it in your own turbulence—Look for it in your own breaſts!

XLII.

But though the preſent ſyſtem may ſtill be thought neceſſary to be continued;

nued; the attempt would be well worth our trouble, to make it palatable to the people. To realize this idea, it were happy if all our conſolidated taxes could be raiſed by the way of LOTTERY. This would alone and at once obviate the two great objections to our preſent modes of taxation; that they fall chiefly upon thoſe who are *unable* to pay, and upon thoſe who have *not* given their conſent. Since none would contribute to this but ſuch as were alike able and willing. This would alſo for the ſame reaſon be found the moſt productive of all taxes. To make, however, ſuch a regulation either ſafe or deſirable, it were neceſſary that all INSURANCES ſhould be abſolutely prohibited. Theſe can have no other poſſible effect than to corrupt and impoveriſh the people. The like pernicious practiſe of *Stock Jobbing* is at preſent greatly reſtrained in France.

SOME

XLIII.

Some taxes might alſo, perhaps be deviſed, that would even contribute to the morals, religion and health of the State: Nor will it ſurely be denied, though it ſeems to be little adverted to by our legiſlators, that population and induſtry ought to have their privilege —Such was the juſt idea that proſcribed idleneſs and profligacy in Ægypt and Sparta, that baniſhed medical empirics, and dictated the *Jus trium Liberorum* in Rome—that wholly emancipated from taxation, *the Father of four Children* in Sparta. If a ſimilar regulation were adopted here, the deficiency occaſioned to the public funds by theſe draw-backs, might be eaſily reſtored by a tax upon their contraries—Immunities might alſo be very properly allowed to religious conformity—to be compenſated by a tax upon non-conformiſts.—And this proceeding, I believe, would be found far more effectual than thoſe penal laws,

which

whoſe inefficacy has been ſo fully experienced in Ireland.

LXIV.

In general, taxation ought to be laid rather on the luxuries than the neceſſaries of life. The great have privileges enough of another kind: In this reſpect the poor ought to have a privilege in *their* turn.—And if laid upon luxuries; it ought if poſſible, chiefly to direct itſelf againſt impoſitions in them.—As a tax upon wines, &c. ought include a tax upon deceitful meaſures—a proper encouragement to the fair dealer, and an obſtacle to every inſidious advertiſer. Neither ought the tax upon wines be ſo high as to furniſh a new pretence to abſentees in Ireland. 'But thoſe curſed vi-'pers,' (ſays Dr. Swift, ſpeaking of the Legion Club, and on this very ſubject), 'uſe all means in their power to en-'creaſe the number of abſentees.' Above all; no tax ſhould be laid propoſing a public benefit, for which either

nothing abſolutely is done, or what is done appears partially done: As either of theſe omiſſions muſt have the neceſſary conſequence of diſcontenting the people, and deſtroying the public confidence, without which no government can long ſubſiſt. Such is the preſent complaint in the city of Dublin, againſt the Committee for lighting and paving; ſeveral whole Streets and even Pariſhes in that metropolis, having been for ſeveral years paſt, enormouſly taxed for the latter purpoſe, and of late alſo, for the former, who have as yet received little or no benefit from either of thoſe deſirable improvements.——Neither ſhould any tax be laid that might have a direct tendency to deſtroy the health or morals of the people.—Such I conceive to be that branch of the exciſe, that enhances the price of wholeſome malt liquors—the natural conſequence of which muſt be, the preference given to ſpiritous and deleterious ones.

SIMILAR

XLV.

SIMILAR rules may ſerve to direct us, in forming a judgment of *Legiſlation:* It ought not on frivolous occaſions to reſtrain the natural liberty of the ſubject.—In this reſpect the whole body of antient foreſt laws introduced by the Normans; and, what are confeſſedly grafted on them, our modern *Game Laws* deſerve and receive the ſevere reprehenſion of Blackſtone. I am, however, happy to add, that we may ſhortly expect a reviſe of them from the patriotic attention of Mr. Pitt,

B. 2. c. 27.
B. 4. c. 13.

XLVI.

IF it is well obſerved by Eraſmus, 'that an unjuſt law ought not to be 'obeyed:'—Perhaps, the 'Marriage 'Act,' might fall under this cenſure, as it militates, for very indefenſible reaſons, againſt an original law of nature. If we will equally allow 'that an un-'juſt tax ought not to be ſubmitted to,' perhaps, That upon News-papers, the

general vehicles of uſeful information, is as unſuitable to a civilized State, as it would confeſſedly be to require a qualification from the repreſentatives of colleges in Parliament. Poſſibly, the laws might be made in ſome inſtances with propriety ſtricter—as in the affair of *Female Seduction*; and in other inſtances more lax—as in caſes of *Petty Larceny*. Of the latter there are, perhaps, but few inſtances to be found—Under the former head it were no doubt deſirable, that the ſufferings of unfortunate debtors ſhould be alleviated —Why ſhould thoſe be obliged to remain a tax upon public *Charity*, who have already, by their imprudence, become a cheque upon public *Induſtry*?

XLVII.

B. 1. c. 2. Beccaria. c. 7. Sp. L. B. 6. c. 12. Rambler, No. 114.

THIS ſeverity on frivorous occaſions is acknowleged by Blackſtone, to be the ſtain of our juriſprudence—and has been obſerved by Monteſquieu, Beccaria, and the learned Dr. Johnſon, to be ſo far from adding ſtrength to laws, that

it

it neceſſarily invalidates them.—For who will be acceſſory to bring a criminal to juſtice, who is conſcious that the puniſhment is beyond all degrees too ſevere for the offence?—And what jury will be found to enforce ſuch a ſanguinary legiſlation? Two fatal conſequences follow from this:——The perpetual impunity of tranſgreſſors—and the neceſſary application of *Informations* and *Attachments*, when the lenity of the juries would have failed to bring offenders to ſuitable puniſhment. But however theſe compendious and unpopular proceſſes may be ſuitable to the ſpirit of the *Criminal Laws*; yet, if it is a well known truth, that the freedom of Rome was eſtabliſhed by the mildneſs of the Porcian Law, and periſhed by the ſeverity of the Imperial; how deſirable muſt ſuch a reviſion of our laws be, as would accommodate them to the Porcian principle! How eſſential to our juſt liberties! And how inſeparable, even from the ſafety of the

King,

King, according to that wiſe preamble in the Statute, 1 Mary—'that the 'State of every King conſiſts more aſ- 'ſuredly in the love of his ſubjects, 'than in their dread of rigorous laws!'

Stat. 1. c. 1.

XLVIII.

But ſuch a reviſion as this can never be expected from a *Tyronical* Parliament.' 'The enacting of penalties to 'which a whole nation ſhall be ſubject, 'ought not to be left,' (ſays Blackſtone), 'to the paſſions or intereſts of 'ſuch as upon temporary motives may 'prefer or ſupport ſuch a bill, but be 'calmly and maturely conſidered by 'perſons who have experience to fore- 'ſee the probable conſequences, and 'who will judge without paſſion or 'prejudice, how adequate they are to 'the evil.' And happy, indeed, were it for the public, could the lower houſe be prevailed on to adopt, in the matter of *Criminal Laws*, the wiſe precedent of the Houſe of Peers, who never even read a *Private* bill which may effect

Blackſt. B. 4. c. 1.

the

the property of an individual, without hearing firſt the report of the learned Judges thereon! How much more eſſential ſuch a precaution, when laws are to be eſtabliſhed that may effect *Thouſands!*

XLIX.

BUT the laws that regulate *Elections*, are thoſe which come home to our preſent ſubject. To theſe many objections are made that principally, I think, concern Ireland: As, that the voter is not obliged to ſwear that he is of age, according to the regulation, 18 Geo. 2—that the Bribery Oath is not incorporated with that of the freeholder, and adminiſtred at the ſame time.—That pretended converts, fraudulent rent-charges, and *occaſional* freeholders, are not ſufficiently guarded againſt.—That there is an inconſiſtency between the enacting clauſe of 21 Geo. 2. and the rent-charge oath itſelf.—That the ſalutary clauſe in 18 Geo. 2. whereby the forty-ſhilling freeholder is obliged c. 18. c. 18.

obliged to ſwear to being in actual poſſeſſion for above twelve calendar months, is overlooked in 21 of the ſame King.—That the 'Legal Voters,' ſpe-
c. 24. cifyed in the ſheriff's oath, 2 Geo. 2. are omitted in the Iriſh Stat. 3 Geo. 3. —That the ſheriff is not bound by a ſufficient penalty againſt double or illegal returns.—That it is not ſufficiently aſcertained, whether he can refuſe to give the freeholder's oath—whether he is bound to grant a ſcrutiny, and when it is to be—or whether he is obliged to make a return of the writ, on, or before the day of the meeting of Parliament; *the Statutes on this ſubject*, 1 *Geo.* 2. *and* 2 *Geo.* 1. *appearing to be inconſiſtent.*—That each election in Ireland is confined to one place, to the great expence of the candidate and fatigue of the ſheriff;—*contrary to the*
c. 18. *practiſe of England, and the Stat.* 18 *Geo.* 2.—That the ſheriff is not ſufficiently limited as to the time of holding county elections, *contrary alſo to*

the

the Engliſh practice, and Stat. 7. and 8. c. 25.
W. as alſo Stat. 18 *Geo.* 2.—and that c. 12.
he is not ſufficiently ſecured from the attacks of the unſucceſsful candidate.—That the ſucceſsful candidate is not required to ſwear to his age, according to the antient law, 23 Henry 6, &c. Of theſe or other objections that may be made, I do not pretend to aſſert the validity. I think, however, they may furniſh a plauſible pretence for the reviſal of election laws—*at leaſt in Ireland.*——And I have in general, to obſerve upon them, that whatever ſuperior defects may be found in Iriſh legiſlation, are only to be imputed to the greater prevalence of the Tribunitial ſpirit in that country.

L.

BEFORE I leave this ſubject, I cannot help wiſhing with the great Lord Camden, that the Commons in their deciſion with regard to elections, would look upon themſelves as bound to adhere to the *Law of the Land.*—I know they

have made it a rule to adhere to *their*
c. 24. § 4. *own* laſt deciſion, by Stat. the 2 of Geo. 2. but this rule has been often violated, nor even if it was ſtrictly obſerved, is that laſt deciſion always agreeable to the law of the land.—I am equally ſenſible, that this great queſtion was negatived in the Engliſh Houſe of Lords, February, 2d, 1770:—But whoever peruſes the inimitable proteſt of the forty-one Lords of that day, muſt allow that it ought *not* to have been negatived. It is true, they were a minority—but were not a Camden, a Rockingham, a Huntingdon, a Temple, a Littleton, a Northumberland, and a Chatham found in that minority? did they not ſupport the ſpirit of the conſtitution? did they not ſpeak the ſenſe of the nation; and if they have unfortunately ſpoken in vain—is not this very circumſtance a grievance that requires a reform?—We have now done with *Legiſlation* and *Taxation*. With regard to the latter, I ſhall recommend

the

the excellent advice of King Henry, VIII. in Shakeſpeare, to the ſerious attention of all thoſe with whom ſuch an important power is entruſted.——

We muſt not rend our Subjects from our Laws,
And ſtick them in our Will—The ſixth part of each!
A trembling contribution—Why, we take
From every Tree, Top, Bark, and part o'th' Timber,
And when we leave it with a root thus hack'd,
The air will drink the reſt.——

LI.

So much for the DISORDERS of Parliament—we now proceed to their REMEDIES. The obvious remedy for any diſorder, is the oppoſite to its cauſe. I have ſhewn the root of all the diſeaſes of our conſtitution, to be the *Tribunitial ſpirit*, either in the people or their repreſentatives. The firſt and moſt eſſential ſtep to a reform, is the abolition of that ſpirit. When that ſpirit expires in the people, it will no longer be found in their repreſentation. When the oppoſition of counties ceaſes, court influence need no longer be employed to counteract it. The *Tyro's*

only to be remedied by a Reform of Parliament.

will ceaſe to be returned on either ſide, when clamour gives place to pacific debate. The *Fountain of Honor* will no longer be polluted by a vain attempt, *to waſh the Æthiope white.* A ſeat in the upper houſe will then be no longer the price and aſylum of political proſtitution, The lower houſe will thus once more be reſtored to its rightful owners, the *Magnates and Sapientes.* The *real* ſages of the law will again be reinſtated in that place, to which they are ſo juſtly entituled. The King's faithful ſervants will no longer be excluded from aſſiſting at the national councils. I know it is the common idea, that this will give a dangerous over-ballance to the influence of the Crown: And it is as generally as unjuſtly ſuppoſed to be the King's deſire that they ſhould be there. On the contrary, it is well known, that thoſe very Kings who originated boroughs, did *not* avail themſelves of this method to encreaſe their influence;—Some of them

them even would not ſuffer their ſervants 'to waſte their time there.' And the preſent royal family have at leaſt as little occaſion for ſuch ſervices as their predeceſſors, ſince, as far as the former ſurpaſſed in prerogative, they outgo them, in conſtitutional influence. The laſt, though not the leaſt, advantage, will be, that the Leſſer dignitaries of the church may be Then invited to poſſeſs thoſe ſeats in the Lower houſe, to which they are as well entituled as the Prelates to the Upper; and from whence they may be permitted to recede, as the *filij nobiles, &c.* do at preſent, whenever they come to be entituled to rank among the Peers. Hume, James I. c. 1.

LII.

NOR ought ſuch a change as this to be conſidered as an innovation, however it may *appear* one. I have already obſerved, that the church convocations made an eſſential part of our p. 60.

firſt

firſt Parliaments, as they do ſtill in the Swediſh Senate, &c. They alſo conſiſted of an upper and a lower houſe. As the upper has been ſince conſolidated with that of the Peers, who ſit there in right of their Baronies, it ſeems equally reaſonable that the lower houſe ſhould be embodied with that of the Commons, in right of the whole body of the church, which they were originally deſigned to repreſent.

Mod. Un. Hiſt. 33. 18.

——— *Alterius ſic*
Altera poſcit opem res & conjurat amice.

Such a union, if it could be brought about, I conceive were much for the peace of the King's government—and conſequently for the peace of the State. 'So kindly to monarchy,' (ſays Hume) 'is the genius of the church of Eng-land—ſuch its ſubmiſſion to epiſco-pal juriſdiction—ſuch its attachment to ceremonies, to order, to a decent pomp and ſplendor of worſhip—in a word, ſuch its affinity to the tame ſpirit of the Catholics, rather than the wild fanaticiſm of the Puritans!'

James I. c. 4.

NEITHER

LIII.

NEITHER are we to look upon ſuch a union as unprecedented, even in the modern ages of Parliament. It appears from the Journals of the lower houſe, ſo late as the Firſt of Queen Mary, that Alexander Newel, prebendary of Weſtminſter, was thought a proper perſon to be returned as one of the burgeſſes for Loo in Cornwall. It it true, he was declared to be diſqualifyed from taking a ſeat in the houſe; but this diſqualification aroſe, not from his being a clergyman, but meerly from his having a voice in the Convocation-houſe—a circumſtance which makes it ſufficiently evident, that, in the opinion of the wiſe commiſſioners of that day, Holy orders were in themſelves *no* diſqualification for Parliament! Douglas, 1. p. 36.

LIV.

THE introduction of the clergy was no leſs recommended, by the French Financier whom I have formerly quoted,

ed, to the American aſſemblies.—'Tell me,' ſays he, 'I pray you, why ſhould a citizen, who has the ſame intereſt as the reſt, in the defence of liberty and property, be excluded from contributing to them by his virtue and knowlege, only becauſe he is of a profeſſion which makes virtue and knowlege more neceſſary?' I have already hinted, that it has long been the deſire of gentlemen of the law, to confine the parliamentary title of *Sapientes* excluſively to themſelves. But that this epithet, originally at leaſt, included the Church, the *Grand Coſtumier*, that curious and authentic monument of the laws of Normandy, to omit other Britiſh, Daniſh, Spaniſh, Swediſh and Saxon authorities, can ſufficiently inform us.—

c. 9. Dugd. Orig. Jur. c. 8.

Les juges ſont ſages perſonnes et autentiques—ſicome les archeveſques, eveſques les chanoines des egliſes eathedraulx et les autres perſonnes qui ont dignite in ſainte egliſe; le ſabbez les prieurs conventaulx et les governeurs des Egliſes, &c.

That

That the clergy were universally the original practisioners of the law in England, we have the express assertion of William of Malmesbury: *Nullus clericus nisi causidicus*, however they have been of late excluded by an unaccountable regulation in Ireland, from appearing as advocates, even in the civil courts.——Nor were Barristers known as a distinct profession, till the time of King Edward I.——But whatever may be the pretension of Lawyers to the exclusive title of *Sapientes*: They have, however, present possession, which is nine parts of the law. It is happy for them, that the Law is not Gospel, or *their* kingdom of *the next world*, or they would be equally set aside with the clergy, in *this*.

De gest. reg. L. 4.

Spelm. Gloss. 37. Dugd. Orig. Jur. 55.

LV.

I HAVE already answered the other pretences that are usually alledged, to support the unjust exclusion of this respectable body of men from their place in the great council of the nation; and

as I conceive, that the full dignity of this order is highly eſſential to the public integrity—I think ſuch a hint as is here given, ought not to be overlooked in any project that may be deviſed for the reform of Parliament. And if we were to add to theſe, the principal *Sages* of Phyſic who were originally involved in the decline of the church, (the firſt *depoſitaire* of this ſcience no leſs than of law), and who ſeem, in general, to be ſince overlooked as unſuitable to Tribunitial purpoſes —perhaps the ſalutary preſcription of Shakeſpeare——

"Take Phyſic Pomp,"

might, if properly adminiſtered, have a a conſiderable power to effect the renovation of our body politic, and ſerve us inſtead of a more violent reform. The ſuperior and various information of theſe gentlemen, ſo juſtly celebrated by Blackſtone, added to their acknowledged humanity, if they could not entirely inſure the health of the

Introd. § 2.

State;

State; might at leaſt prevent the deformity of the laws, and contribute to render them more palatable to the people. Such is the ſage practiſe of Phyſicians deſcribed by Pliny and Taſſo——

Plin. L. 2. Ep. 8. Fairfax, &c.

So we, if children young diſeaſ'd we find,
Anoint with ſweets the veſſel's foremoſt parts, &c.

Nor has their ſalutary effect upon the body politic, been leſs juſtly acknowleged by that accompliſhed Stateſman and Poet, Mr. Waller, in a beautiful compliment to his friend Dr. Rogers—

As fam'd Hippocrates did once extend
His ſacred art whole cities to amend;
So we, my friend, ſuppoſe that thy great ſkill,
Thy gentle mind, and fair example, will
At thy return reclaim our frantic Iſle,
Their ſpirits calm, and peace again ſhall ſmile!

LVI.

THE excluſion of theſe ſalutary Phyſicians of our Commonweal, perhaps, may be in part owing to the multiplicity of *State Surgeons*, who have been too long in poſſeſſion of our Parliaments. The reader will eaſily underſtand, that I mean the *Military Order*,

whoſe chirurgical ſkill, would, methinks, be much better applied to the enemies of our King, than his liege ſubjects; at leaſt if they have no better ſucceſs in politics than they had in the late American war, it is high time that their ſervices were diſpenſed with. I would not, however, wholly exclude them from our councils, no leſs for their acknowleged antiquity there, than for the firmneſs they may eventually give to our Parliamentary proceedings. But ſurely, it were a wiſe branch of reform, if none under a certain military rank were admitted to a ſeat there, as perhaps, of all quacks, theſe are the moſt dangerous to our body politic, as they are notoriouſly the leaſt qualifyed. And for this ſalutary idea, I am indebted to his late Royal Highneſs FREDERIC PRINCE *of* WALES, to whom I muſt alſo acknowlege my obligation for the no leſs deſirable hint of an Abolition of parties.——Auſpicious ideas! which would have been realized, had

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He lived to poſſeſs His hereditary throne, and which theſe nations have been hitherto unhappily deprived of, by His lamented and untimely death!—Such a reform could alone remove from our Senate the hackneyed appellations of a *Goose-pye* and a *Cock-pit*; and make it indeed, what it was deſigned to be, THE AUGUST COUNCIL OF THE NATION!

LVII.

A REFORM of this kind could not fail to be attended with ſeveral ſignal advantages. To the Peers; that they would no longer ſtand in fear of the innovations of the lower houſe——be denyed their due influence on elections —or be reduced to the neceſſity of ſupporting it by unpopular and ineffectual means. To the Clergy in general; that they would be conſulted, at leaſt in laws that concern *themſelves*; a propriety which has not been always attended to—or if they are to be taxed ſeparately from the Peers and People (which

(which has been ſometimes iniquitouſly propoſed) they would have at leaſt the ſmall ſatisfaction, that *their own* conſent was given in Parliament.——To the Military ſenators; that they would no longer remind us of Congreve's deſcription in Love for Love; *of a Captain without a head, and his heart where his head ſhould be.*——To the People; by inſtilling into their breaſts an idea of the ſanctity of their legiſlators, and, in conſequence, a quiet and ſubmiſſive ſpirit.——To the Parliament if it could not be expected to reſtore primitive virtue—it muſt at leaſt conſiderably contribute to its external decorum and dignity: And even *theſe* in the preſent ſituation of the world, muſt be looked upon as deſirable acquiſitions—And might it not be a conſiderable improvement of the very beſt laws; if they were through their whole progreſs, under the inſpection of thoſe who have in charge the health, religion, morals and ſecurity of the nation?

LVIII.

THE further advantages that would follow from ſuch a reform are innumerable. The retenſion or excluſion of placemen of penſioners, would become wholly indifferent when there were no more jobs to be ſupported, no more oppreſſive taxes to be raiſed, no more repreſentatives to be corrupted, no more tribunitial oppoſition to be counteracted. The very exiſtence of all exceptionable penſions muſt gradually ceaſe, when there were no more unreſpectable ſervices to be rewarded: Or if the law for excluding from Parliament the few that remained ſhould ſtill continue, their re-election would be no longer either objected to on one ſide, or thought neceſſary on the other. Neither would ſuch a bill be ever thought of in Ireland. And if it is true, what has been ſaid, that the qualification bill is often evaded in England; this evaſion would be no longer either

either counteracted or reprobated:—Even the qualification itſelf might become unneceſſary—either there or in Ireland. As venality by degrees declined, *proper* influence would again come in play, and country gentlemen would live on their own lands to maintain it. The natural conſequence would be, that the kingdom would flouriſh, and lands bear double their preſent value. Reſpectability would thus be reſtored to the debates of Parliament:—Our load of taxation would then be alleviated, as well as the bugbear of borough influence, when that tribunitial ſpirit which rendered them both neceſſary, was lulled to reſt; and thoſe privileges which have been ſo often miſapplyed to the obſtruction of juſtice, would either become wholly obſolete, or, if ſtill continued, would ceaſe to be an inconvenience to the people.—Thoſe privileges have of late been alleviated in England—were it not ſtill more neceſſary in Ireland? It has been

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an old and true obſervation, that thoſe who were leaſt intituled to them, have been ever the moſt tenacious of them—

Roaring 'till their lungs were ſpent
Privilege of Parliament———

but all ſuch would be happily removed, by realizing this ſalutary plan of reform.—Neither would queſtions any longer be determined rather by *Number* than *Weight*, according to the lamentable account given by Pliny of his own time—*Vota nunc numerantur non ponderantur!*

LIX.

Plan of a conſtitutional reform.

SUCH a plan of reform, could we be perſuaded to reſt there, might be effectually realized with little trouble, ſince it conſiſts but of one propoſition 'Aboliſh the Tribunitial ſpirit.' This alone would prove a complete *Panacea* for all the evils of the State, reſtore our auguſt Parliament to their original characteriſtics, and ſecure us at once from the *clamor civium prava jubentium*, and the *Metus inſtantis*

tyranni—But I cannot be yet unaware, how little chance there is of ſuch a propoſal meeting the approbation of our demagogues. I am no leſs aware, how little ſuitable it is to the general temper of the preſent age: And I ſhould indeed deſerve to be laught at as a *Utopian* Legiſlator, even by our viſionary demagogues; if, while I propoſed a plan of an eſſential reform, I did not attempt to cloath it in ſuch 'a queſtionable ſhape,' as may expect to be, at leaſt in ſome meaſure, realized.

LX.

It ought to begin with the Electors.

I HAVE already, I ſuppoſe, ſufficiently ſhewn the original character of Parliaments, and what changes ought to be made, if we would recall them to their primitive idea: But to make this projected reform poſſible, it is neceſſary we ſhould firſt reform the *Electors*.—And this moſt diſagreeable part of my taſk I have reſerved to the laſt—and, if truth and indiſpenſible candour would permit me, would wiſh wholly to omit.

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In my attempt to reſtore the original conſtitution of Parliament, I was authorized by the animating examples of many of the moſt diſtinguiſhed perſonages of preſent and paſt ages. Parliaments are ſupported by power; and to oppoſe the *dereglemens* of power requires only the principles of *a free citizen*, and the firmneſs of a MAN.—But to make remarks that may perhaps appear invidious, however well deſigned, againſt thoſe who are ſoo apt to imagine that all power was originally given againſt Them, and that to attribute to God or Cæſar their due, is only a conſpiracy to plunder Them—to furniſh hints that may ſeem further oppreſſive to thoſe who conſider themſelves as under *a yoke of oppreſſion already*—Traits like theſe require the moſt delicate hand of the moſt conſummate maſter, and I hope the whole body of my brother freeholders will give me credit when I add, that nothing leſs could extort them, than my abſolute conviction,

that every attempt to a parliamentary reform *muſt* be found ineffectual, under the *preſent* ſtate of the elective franchiſe. In this perſuation then will I be forgiven if I aſſert, that *every* attempt to an advantageous reform muſt neceſſarily begin with *the People?*——It is further requiſite to make it extenſively uſeful, that it ſhould reſpect the counties at large, rather than thoſe iſolated and inſignificant Boroughs, which are at preſent the general ſubject of popular declamation.

LXI.

I HAVE already obſerved that it is the ſpirit of the conſtitution, that no individuals ſhould have votes but ſuch as are virtually *free*:—For this reaſon Minors are forbid to vote. It is no leſs the ſpirit of the conſtitution, that voters ſhould poſſeſs ſuch a ſtake in the State as may ſecure their fidelity to it. Such was the wiſe limitation appointed by the Statute of Henry VI: Any reform that *can* be conſtitutionally made,

muſt

muſt be regulated by theſe two ideas. Let us compare the county elections with the *firſt* of them. Who carry all before them at thoſe elections?—Who, but great majorities of the loweſt of the people, even of forty-ſhilling freeholders?—Are theſe free? are they not leſs free, leſs enlightened, than many Minors? Is not ſuch a franchiſe oppoſite to the ſpirit of the conſtitutions? Is it not oppoſite to common reaſon? Again—let us compare them with the wiſe limitation of Henry VI. I am ſenſible that that very limitation I commend, is itſelf conſidered a vile innovation by many of our demagogues—But if we are to regard a Statute of Henry VI. as an innovation, where then are we to look for our conſtitution?—We muſt go to the Saxons, to the Picts, to the Belgæ, to the Welſh, to the Mileſians, to the Hermini, to the Brigantes, or the Lord knows where. If the Statute of Henry VI. be *not* our conſtitution, I am ſure we ſhall never find

find any thing that *is*. But, though I reſpect even the *Letter* of that Statute, I am ſtill more tenacious of the *Spirit* of it. If we conſider the great diſproportion of value between the ſum of forty Shillings from that time to the preſent; will it not be manifeſt, that what was conſtitutional *then*, muſt be unconſtitutional *now*? What a conſtitutional reform, therefore, would it be to reſtore it to its original ſtandard? How would ſuch a reform at once eſtabliſh the freedom of the elector, and the reſpectability of the repreſentative!

LXII.

PERMIT me to aſk one other queſtion—If the proviſion made for encreaſing the qualification of Repreſentatives was confeſſedy a wiſe one, is it not a defect in our laws, that the qualification of Electors has not been proportionably encreaſed? Is not the want of ſuch a proviſion one great cauſe of the late acknowleged corruption at elections?

elections? I am yet ſenſible that this propoſal is very oppoſite to what the public expect or deſire, if we are to judge from ſome late unaccountable plans that have been offered—but were they conſtitutional? were they rational? were they even poſſible?

LXIII.

I HAVE another grievance to mention which may expect a better reception. It is already, I ſuppoſe ſufficiently apparent, that I am in general no more a friend to an unlimited extenſion of franchiſe, than to an election by ballot, or a contracted duration of Parliaments. If I had no other reaſon to alledge, the neceſſary confuſion attendant upon all theſe innovations (and eſpecially *the laſt of them*) would have ſufficed to direct my opinion, as it directed the meaſure. But is there no further extenſion of franchiſe that might be deſirable, even upon *my* plan? On the contrary—are not the *Tenants by Copyhold*, from what I have already obſerved

obſerved of them, entituled to expect ſuch a franchiſe? When they were originally prohibited from a vote, they were only as we have ſeen, *Tenants by Will*——Since the generoſity of the law has put them upon a better footing, by making their property hereditable, ought they not alſo to be allowed the common right of ſuffrage in proportion to their property? And I am happy to find myſelf ſeconded in this opinion by ſo good an authority as Mr. PITT. What I have further to offer on this head, I am proud to refer to no leſs an authority, that of his illuſtrious FATHER. An addition to the preſent number of county repreſentatives has been propoſed by that unblemiſhed patriot. Even if we could be inclined to diſpute ſuch an authority: Yet what I have already remarked upon the returns directed by Magna Charta, muſt convince us that ſuch an addition were perfectly conſtitutional. If this reform might be expected to take place, no part of the

Speech, April 18, 1785.

the Britiſh dominions ſtands more confeſſedly in need of it than Wales, an antient and loyal Nation, which yet poſſeſſes no more than a ſingle repreſentative for each county.

CXIV.

WITH regard to Cities; we have ſeen that only two were originally repreſented; a proof, that repreſentation was not thought an inherent right of every citizen. If we ſhould however extend the elective franchiſe to ſuch cities and corporate towns as were originally omitted, or have ariſen into conſequence ſince, and do not yet demand it; ſtill preſerving the relative repreſentation of the united kingdoms: This were at once to pay a tribute to public juſtice; to popularity, and to the dignity of Parliament. A deſirable branch of reform, that has alſo obtained the ſanction of Lord Chatham's opinion; from a magnanimous idea, that what was ſo manifeſtly for the advantage of both king-

Ely, Manchester, Birmingham, Leeds, &c.

doms, *cannot* be contrary to the *ſpirit* of the act of union! however it may be oppoſite to the *letter*. So true will it be found in laws no leſs than in religion, 'that the letter killeth, but 'the ſpirit maketh alive!' Nor, though I am profeſſedly no demagogue, do I yet deſire to reject the enlightned idea of Mr. Wilkes, that the great metropoliſes, as well as the moſt populous counties of theſe kingdoms, are juſtly entituled to an encreaſed repreſentation—And if there ſhould be found in thoſe metropoliſes, or elſewhere, any freeholds that are wholly unrepreſented in our Senate, and are yet by the laws entituled to ſuch a franchiſe—ſurely their juſt right ought to be no longer withheld from them!

Speech, March 21, 1776.

LXV.

I HAVE already ſpoken of Boroughs, and how unconſtitutional it would be to deſtroy them. But though I am and always will be an advocate for *Proper Influence*—I am as far averſe as

as any man alive to ſyſtematical corruption—All that I contend for is, that if in any inſtance corruption ſhould be proved againſt them; the offending one may be puniſhed either by a temporary recall of the franchiſe (which has been exemplifyed in ſome inſtances) or by any other *ſuitable* puniſhment the legiſlature may inflict.—— But I would not have the puniſhment wholly diſproportioned to the offence—I would not have the recall of the franchiſe perpetual. Whatever latitude may be allowed to the diſpenſation of God: Surely the ſanctions of human laws ought not to be eternal! And I am alſo convinced that all the benefits we could reaſonably expect, even from a revocation of the franchiſe, might be attained in a leſs exceptionable manner, by a prevention of that illegal traffic that is ſaid to have been of late flagitiouſly practiſed in the diſpoſal of boroughs. This may be a juſt pretence for the inſpection, New Shoreham, &c.

or perhaps, for the renovation of the charters of thoſe boroughs, though by no means for a final revocation of them. When the ſale of boroughs is once removed, the plea for venality in the repreſentative will be effectually aboliſhed.—And this reform alone, without any further change, would infallibly remove the worſt corruption that has ever been alledged againſt Parliaments, as well as prove the moſt efficacious remedy that has been hitherto propoſed againſt the violence of the democratical ſpirit.—For that ſpirit muſt naturally languiſh and expire *out of doors*, when it finds itſelf no longer ſupported by the enthuſiaſm or venality of its Patrons *within*.—And as to what would remain of improper borough influence, after this great *Remora* was removed: I mean the influence of thoſe Patrons who happen to be themſelves, from intereſted purpoſes, in oppoſition to government, over ſuch repreſentatives as are not purchaſers:—

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This I look upon as a little evil, neither numerous, permanent, nor conſequential. It perhaps might be ſtill a further improvement, that the tryals for conteſted elections ſhould be removed from the Parliamentary committees to the court of Chancery that originally took cognizance of ſuch matters, or any other of the common law courts—the proceſs of obtaining redreſs would be probably leſs expenſive—the deciſion, it is more than probable, *not leſs* invariable and impartial. And, though I am againſt the violent abolition of borough influence, as unconſtitutional; I will yet allow, that the voluntary reſignation of ſuch a patronage, which has been practiſed in a few *ſplendid inſtances* in Ireland, is equally public-ſpirited, juſt, and deſirable. The purchaſe of borough patronages by government, or the laying open of boroughs, which has been propoſed by ſome, not to mention the violent and illegal abolition of them—might be attended

Douglas, Introd. Note, (K)

tended with a ſimilar effect—but would that effect be obtained in ſo unexceptionable a manner? The whole of the above deſirable branch of reform is within the reach of the King's prerogative, as it does not innovate upon the number of repreſentatives, the only particular in which he is limited by the Scots union; nor can he be expected to oppoſe it, as the preſent practiſe militates no leſs againſt the Royal prerogative, than againſt the acknowledged rights of the People!

LXVI.

Letter to the Bp. of Waterford

'THAT ſhameful method of governing,' (ſays Lord Cheſterfield) 'which has been gaining ground inſenſibly, ever ſince Charles II; has, 'with uncommon ſkill, and unbounded profuſion, been brought to a degree 'of perfection, which at this time diſhonours and diſtreſſes the country; 'and muſt, if not checked (and God 'knows how it can *now* be checked) 'ruin it.' That ſhameful corruption

that

that his lordſhip ſo complains of, I have already traced to the Tribunitial ſpirit in Parliament. If there was no ſuch ſpirit, there would be no venality. If there was no venality in the repreſentative, there would be no power of corruption in government.—The noble Earl is wholly at a loſs for a remedy——Surely he could not have been ſo at a loſs, had he looked upon ſo obvious a remedy as the abolition of boroughs, either as a proper or an effectual one—Such was the wiſe opinion of Lord Cheſterfield. I have ſhewn that the ſentiments of the great Lord Chatham were preciſely the ſame—At all events, the *royal* boroughs ought to remain ſacred as an original branch of the King's prerogative. It might be, however, an improvement, if all who receive Public charities were univerſally precluded from voting in boroughs. Such a reform in the electors would more effectually ſecure the dignity of repreſentation and the peace of the State,

Speech, Jan. 22, 1770.

State, than any thing that has been as yet deviſed. Thoſe who had property would never entruſt the preſervation of it to ſuch as had none themſelves. The *Lackland* demagogues would become equally inſignificant within doors and without.

LXVII.

How it may be obtained.

How deſirable, how ſalutary were ſuch a reform as this! It now only remains to enquire, how we may expect to obtain it? I know that our demagogues will not be at a loſs to alledge on the preſent occaſion the authority of Locke, 'that it is an inherent pri-

On Gov. p. 2. p. 212.

'vilege of the people at certain times, 'to recur to a ſtate of anarchy, with 'full liberty to conſtitute for them-'ſelves a new legiſlative, and even ex-'ecutive, power.' I know alſo that his followers are ready to extend his doctrine to *all* times. But with due deference to Mr. Locke and his followers, I will never be brought to believe, that anarchy *can* be a remedy

for

for corruption; however, it may have been often the cauſe of it. We read that the waters of Bethesda, when troubled by an angel, were empowered to work a miraculous cure. But demagogues, however, they may be qualifyed to trouble the waters, cannot yet pretend to be angels, nor have we any right to expect a remedy at *their* hands—and government ſeems to be a ſpecies of Bethesda, whoſe virtues are rarely improved by being troubled. We ſhall therefore recommend to theſe *angelic* doctors, the prudent *Procedè* of a predeceſſor of theirs recorded by Swift, on a leſs ſerious occaſion——

——Strephon wiſely would not grope,
Or foul his hands in ſearch of *Hope*.

LXVIII.

I KNOW it has been ſometimes the opinion of Swift, 'that corruption in 'government is as far worſe than 'anarchy; as the ſtate of a ſavage is 'more deſirable than that of a ſlave at 'the oar.' As I do not deſire to charge

Sent. of a Ch. of Eng. Man.

the patriotic author with incongruity to his aſſertions elſewhere, I ſhall content myſelf with obſerving, that He certainly can only mean ſuch a corruption as might, perhaps, have authorized the tribunitial outrages at Rome: Such as I have ſufficiently ſhewn, that we are far from experiencing at preſent, and have no reaſon to apprehend—The worſt corruption that can befal a State! Even upon this hypotheſis the poſition were yet doubtful, ſince the *worſt* government is manifeſtly better than *none at all*: Upon any other hypotheſis his aſſertion is abſolutely falſe.——Leaving then Mr. Locke to compromiſe his difference with Sir William Blackſtone, and Dr. Swift with himſelf——I ſhall follow the advice of the great commentator on our laws, in looking for the reform of our political abuſes, only within the precincts of the conſtitution; not doubting but that it will be always competent to our occaſions until

til that æra arrives, which is appointed to recall things to their firſt principles—an awful period, which anarchy muſt inevitably accelerate, and union alone can prevent!—Nor are even the moſt violent means to be univerſally conſidered as a remedy—*Non ea eſt medicina cum ſanæ parti corporis ſcalpellum adhibetur atque integræ, carnuficina eſt iſta et crudelitas. Hi medentur reipublicæ qui exſecent peſtem aliquam tanquam ſtrumam civitatis.*—And to whom does this deſcription apply but to the demagogues and their partizans?—But as we do not deſire to employ ſo violent and dangerous an inſtrument of reform, even againſt themſelves—we ſhall now proceed to look out for ſafer ones.

LXIX.

It is juſtly obſerved by Mr. Pitt, 'that the united ſtrength of the three 'eſtates of Parliament, is alone compe-'tent to ſuch a reform:' But in which of theſe eſtates can we expect it to

Speech, April 18, 1785.

originate? I acknowlege that the lower houſe poſſeſſes in itſelf a temporary power, of excluding the incompetent and the exceptionable from a ſeat in *that Parliament only*—a power which it has alſo ſometimes exerciſed—But this, were they willing to do it, would be only to lop off rotten branches, not to lay the axe to the root of the evil. And when can we expect even ſuch a reform, but from a Parliament of *Magnates* and *Sapientes*—that is, from a Parliament already reformed?—If any change were to be expected from the lower houſe, as it now ſtands, it would require the concurrence of the whole legiſlature to render it perpetual—Or if they ſhould ſtrain a point by their ſimple authority to effect this, however popular, meaſure, as they did in the caſe of the Septennial bill; what could they expect *but* the general diſapprobation of the Junius's, as well as of all the leſs enlightned zealots of the nation? Nor would the Lords be

Whitl. of Parl. c. 101.

Stat. 7. Geo. 1. c. 28.

be ſuffered to interfere alone, in the regulation of the Lower houſe.

LXX.

THERE is a *remedial* part in every law, there *muſt* be a remedial part in the conſtitution. It was the juſt determination of the moderate Parliament in King James IIds. time, 'that 'Parliaments were as liable to abuſe as 'monarchy.' They deſired not to leave things in ſuch a ſituation, where the King could not, if he found it requiſite, either prorogue or diſſolve them. It was therefore wiſely determined that the remedy of all our abuſes can only be found in THE KING. We had already occaſion to obſerve the cheque he poſſeſſes upon Parliaments—but how inadequate to the projected reform, is his acknowleged power to prorogue or diſſolve that Parliament, which may poſſibly be returned worſe than before? And how fatal would frequent prorogations be to the public buſineſs of the nation?

Blackſt. Introd. § 2.

Hume, 4. 227.

THE

LXXI.

THE negative which the King alſo poſſeſſes upon all parliamentary proceedings, is compared by Blackſtone (who approves of it) to the limitation of the Tribunitial power in Rome, as inſtituted by Sulla——*Tribunis plebis ſua lege injuriæ faciendæ poteſtatem ademit, auxilii ferendi reliquit.* This reſtraint upon the Tribunes of Rome, I will not deny to be ſalutary for *them*. And happy indeed had it been for Rome had they been more reſtrained. But whatever Mr. Blackſtone may think, I will yet venture to aſſert, that to reduce a great King to the humiliating reſtraints of Tribunitial power; can be looked upon at beſt, but as *a Mockery of Majeſty*. *That* auguſt Parliament ſurely could not have deſigned to confer on their King a meer ſhadow of power, which is equally diſqualifyed, to prevent evil, or to effect good. To judge of their proceedings fairly, we muſt

B. 1. c. 2.

Cic. de Leg. 3. 9.

muſt follow the ſteps of the great Lord Chatham, in reading them according to the *Spirit*, and not according to the *Letter*. We will then perceive they muſt have deſigned for their King a full, a ſufficient, a *reforming power*.—Such a power is no more than was practiſed by Cromwell, (as Hume ſuppoſes) to ſupport the appearance of liberty—than was practiſed by King James II, confeſſedly for the ſubverſion of it. Why ſhould not the ſame power that was exerciſed by the worſt princes for doubtful, or the worſt purpoſes, and againſt the wiſh of the people, be allowed to the beſt King, at their requeſt, for the beſt ones?

LXXII.

EVEN were the deſign not ſo confeſſedly ſalutary, ſuch an exertion of power is not unconſtitutional——It has been an eſtabliſhed principle of Engliſh juriſprudence, founded upon good reaſon, 'that though the King cannot 'allow of what is morally unlawful, 'he Hume, 4. 251.

'he can permit what is only prohibit-
ib. 250 n 249. 'ed by positive Statute.' Such a dispensing power was allowed to Richard II. It is in fact as old as Henry III.

LXXIII.

It will further, perhaps, be asserted, that this dispensing power was prohibited by the *Bill of Rights*. *That* I equally deny. The wisdom of the great council of that day, could not have required such a humiliation of Kings. The liberty of the nation would be no better than anarchy, if purchased at such a price. That convention were so far from condemning the exercise of the dispensing power in general, 'that they only ventured to
ib. 351. n 'condemn it so far as it had been ex-'ercised by the late King.' A plain acknowlegedment that there may be an use of the dispensing power which is not only allowable but salutary; and which those great reformers did not think themselves competent to enterfere with. And if this power is proved

ed to be not incompatable with the *Bill of Rights*—I have already ſhewn that the uſe of it is no leſs agreeable to the *Act of Union*. Or if this diſpenſing power were yet inſufficient, ſurely there ought to be and muſt be a power lodged ſome where, like that of the dictators of Rome, upon momentous occaſions to provide for the ſafety of the State *ne quid reſpublica detrimenti capiat*——A power that alone can be truſted ſafely into the hands of the King—and which the Parliament alone, like the Roman Senate, would be entirely incompetent to; and that ſuch a ſalutary power is the inherent right of all our Kings the whole Engliſh Hiſtory may evince. From whom have we originally obtained the laws and *privileges we poſſeſs*? From whom but from the beſt of Kings, the incomparable Alfred.—From whom the great Parliament of our nation, the barrier of liberty? Let us own our indelible obligation to

Henry III. and his auguſt COUNCIL. A council which though it was long prior to the exiſtence of Parliaments, though it influenced the firſt election of them, though it ſtill continues to direct the renovation of them, it has become a modern topic to exclude from any place in the preſent conſtitution.—— From whom the ineſtimable privilege of taxing ourſelves? Let us never forget that it originated from the magnanimous Edward. From whom have we obtained a reſtoration of thoſe rights when they were well nigh loſt? From whom but the immortal William III, ſeconded by the great council of our nation. Chiefs that aſſerted their own power only to eſtabliſh thoſe of the nation! And a King that would not accept of a kingdom, but on terms ſuitable at once to his goodneſs, and his conſcious dignity! He would not be a regent, he would not be the meer huſband of a Queen, he would not be the King of an enſlaved nation, he would

Howell, p. 86.

would be no leſs than a legitimate King; no leſs than the moſt powerful of Kings; no leſs than the King of a free people! From whom have our wiſe anceſtors, from the remoteſt times, expected and obtained every redreſs of Parliamentary and other grievances? From whom but the King alone—or the King and his auguſt council? And though we cannot expect from the other eſtates to have originated ſuch a reform, I dare venture to aſſert for them, that they would all be ready to ſecond it.

Douglas, Introd. Note (G) Prynne, Brev. Parl. red. p. 156, 158, &c.

LXXIV.

To whom then ſhall we apply for a reform of the abuſes we complain of? To whom but to the King in his original hereditary council? *That* wiſe council will not fail to ſupport him in ſuch a deſign; their own dignity no leſs than *his* are concerned. Or if his hereditary council will not, as of old, aſſiſt our requiſition, let us avail ourſelves of that privilege to petition the Throne;

the old and inherent privilege of English ſubjects, the legacy of our Henrys and Edwards reſcued from the anarchy of Tribunitial power by the wiſe Parliament of King Charles II; and finally ſecured to us by the declaration of rights, that he will of his royal prerogative remove ſuch obnoxious counſellors from his preſence. Whatever other cauſes we may have had to complain, we are happily nor yet diveſted of *this* right, nor the King of *this* power. Nor is our auguſt SOVERRIGN without the admirable documents of his predeceſſors how to employ it—The excellent Alfred, upon the united and earneſt application of the people, heard their complaint, and immediately redreſſed them. He removed from his council ſuch as, by their incapacity or vices, had rendered themſelves obnoxious to the ſubject, and replaced them by the prudent and the incorrupt. A like prerogative was exerciſed by Edward I. with a ſimilar effect.

fect. The ſame happy conſequences were lately experienced from the ſpirited interpoſition of one popular nobleman: So that the ſubjects of GEORGE THE THIRD have no reaſon to deſpair.

LXXV.

SUCH a reform in all the public departments in his government, as would admit of none but of perſons of the ſtricteſt honor and virtue, was long ſince promiſed to our nation by the immortal William III. but he did not live to effect it——Such a reform was propoſed to the miniſtry of Queen Ann, by an author who does not ſtand in need of any panegyric from me; but their fatal diſſentions and rapid decline prevented it from taking place. But violent meaſures like theſe, I am happy to obſerve, are far from being neceſſary at the preſent day. The words of the Poet——

Regis ad exemplum totus componitur orbis

are

are peculiarly applicable to *our* time, at leaſt as far as our Sovereign is concerned. And as we are bleſſed with a King whom it is virtue to imitate, ſo we are happy in miniſters who are known to be THE FRIENDS OF REFORM. Why may not we therefore expect to verify the admirable words of Iſocrates ἐν τοῖς πρακτέοις ἀνθ' ἁπλῶς τῆς ἀρετῆς, that the acknowleged virtue of our rulers ſhall extend itſelf over the nation; and, even without an effort, effect the renovation of Parliaments!

LXXVI.

OR if any effort is neceſſary, how eaſy muſt it be found! The *principal* features of the reform propoſed, I have ſhewn to be perfectly in the power of the King, and *every* neceſſary alteration in the reach of the King and his Parliament. Nor ought *any* ſalutary change to be objected to as an innovation, ſince to what do we owe our preſent inimitable eſtabliſhment that has

has been ſo long the wonder of the world, but to a long ſeries of ſalutary *changes*? Neither can the Parliament be averſe to ſupport the juſt prerogative of the King; nor will the King be unwilling to grant to the univerſal voice of his people the wiſhed for REFORM OF PARLIAMENTS——A reform at once ſo eſſential to the royal prerogative, to the dignity of Parliament itſelf, and to the juſt rights of the nation!

LXXVII.

CAN any thing yet be wanting to complete ſuch a reform? If we would wiſh to render it permanent, let it be made *univerſal*: Let the whole body of the nation be bred to the competent knowlege of thoſe laws, that all are bound to obey—at leaſt let thoſe who are born to be electors, be inſtructed in the value of their franchiſe—Above all things it is to be deſired, that legal knowlege were added to the other accompliſhments of our repreſentatives:

That

That as they are moſt intereſted in the preſent eſtabliſhment, they ſhould know better than others how to preſerve it. This knowlege Cicero affirmed to be 'neceſſary for a Senator;' —and the illuſtrious Seævola no leſs declared, 'that it was a ſhame to be 'without it.' Were that great oracle of Roman juriſprudence again to ariſe, how would he execrate thoſe immenſe Tomes of legiſlative inconſiſtency, that are at once a diſgrace to our Statutes, and render their ſtudy impracticable! The *viginti annorum lucubrationes* were of old eſteemed indiſpenſible to a Senator, why do we not hear of them *now?* How favorable would ſuch an inſtitution be to our laws, how favorable to public virtue! How would it revive the love of our country? For as the love of God is beſt acquired by contemplating the goodneſs diſplayed in his works, ſo the love of virtue and of our country muſt be the neceſſary reſult of a perfect knowlege of her admirable

De. Leg. 3. 18.

Ff 1. 22. § 43.

mirable conſtitution.—Nor would even the *immenſus aliarum ſuper alias acervatarum legem cumulus* be any longer complained of.—They would on the contrary conform to the admirable idea of Lord Bacon, 'that our laws were 'only the more perfect the more they 'were mixed,' ſince all error would be removed from our books; and, if they continued to multiply, they would be only the more valuable, as the accumulated *wiſdom*, not the *folly*, of ages.

LXXVIII.

If ſuch a reform as this were to take place, alike in our laws and manners, how would it at once enſure reſpect to majeſty, *Sine bonitate nulla majeſtas*: add ſplendor to nobility, *Nobilitas ſola atque unica virtus*: ſecure the freedom of the ſubject according to the juſt idea of Scipio, 'that walls 'are no ſecurity to a depraved nation:' render even the laws themſelves unneceſſary, ſince virtuous magiſtrates are ſpeaking laws—and prevent the

dangerous tumults of the people, by eradicating thoſe vices that are the cauſes of them. *Vitia nobilium cives paulatim a virtute deſciſcunt variis malis rempublicam afficiunt quibus inundatis fluctuare neceſſe eſt.* Such a public attention was paid of old to the care of the riſing generation, by Athens, Sparta and Ægypt; ſuch an attention was paid by Perſia, under Artaxerxes Longimanus; ſuch a proper attention is paid to her young nobility, by the preſent Empreſs of Ruſſia—Why do we want to be taught the advantage of ſuch an attention? Should it not be equally obvious to our own legiſlature? How different is ſuch a reform from any propoſed by our demagogues, yet how far more effectual?

LXXIX.

AWAY then with thoſe dark clouds that have ſo long over-caſt our polical hemiſphere—Away with *Debates, Reform Societies, Conventions, Tumults and Military Parades,* that can alone lead

lead to that tyranny which they pretend to avoid——

" The ſpirit-ſtirring drum, the martial fife,
" The pomp and circumſtance of glorious *War*"

However neceſſary in public commotions, are wholly unſuitable to a time of profound peace—Such an unnatural warfare cannot be glorious to either ſide, and muſt be fatal to both.

LXXX.

ARMS, it is true, beſit the hands of citizens; but Councils belong to the King: The arms of citizens ought to receive their juſt direction from the King. To what cauſe ſhall we impute the lamentable decline of the militia under King James II?—To the King's unjuſt ſuſpicion of his ſubjects, and to the ill-judged caution of the people, that would limit the royal power to command them—Away with ſuch ſuſpicions. Whatever there might be *then*, I hope there is no need of them *now*. Let the people embrace the

King's army, and let the King depend upon the loyalty of his *Armed Citizens!*

LXXXI.

Conclusion

My countrymen are now in poſſeſſion of my beſt and moſt deliberate thoughts, from an attentive inveſtigation of the ſubject before me. I have uſed no more than that liberty of ſpeech, that was allowed to every individual of the Athenian commonwealth upon momentous occaſions. It were a crime in me to ſay, I can be unintereſted in a cauſe which involves the welfare of my country. But though I acknowlege myſelf to be *intereſted*, it muſt yet ſufficiently appear from the courſe of my work, that I am of no *party*. A perſon who chuſes to be unknown can be no partizan, and ought to be looked upon as wholly unprejudiced, to whatever ſide he may appear to incline. However my opinions may be received, I declare that my only ſtudy has been, the inveſtigation of truth: and my only object, the good of my country. If, in this imperfect

imperfect endeavour to ſtate the original conſtitution of Parliaments, with their perpetual ſubordination to the rightful Prince from their firſt introduction into theſe kingdoms to their lamentable decline, I have been obliged to advance diſagreeable truths; let the goodneſs of my intention ſerve for my apology—They were ſuch only as aroſe naturally out of my ſubject; or if I ſhall be found to be in error, I do not pretend to be more than *a Man*—I ſhall be at all times ready to acknowlege and correct my errors, but I muſt not be expected to reply to meer captious invectives. Where I have been wrong, it muſt be at leaſt allowed, that I have been *wrong with Plato*; that I have been under a common miſtake with all the moſt pious, moderate, loyal and reſpectable perſonages in the beſt ages of England, and of the world. With regard to lighter defects in point of conciſeneſs, method, or ſtile: I will ingenuouſly confeſs, that I might have made my work ſhorter, more correct or

methodical

methodical, had I allowed myſelf more time—had I fewer avocations, or a better capacity. But to delay a publication which propoſes the public good for its object, meerly from a trifling delicacy about my own reputation as an *anonymous author*, would have been in my opinion no leſs puerile and pedantic than criminal and inexcuſable. I neither expect popular applauſe nor deſire it. I have been content to *deſerve* it by an honeſt endeavour to perpetuate the peace of my country. I am a freeholder, and as fond of liberty as the moſt violent demagogue; but I am at the ſame time ſenſible with the inſpired King, 'that only by pride cometh 'contention;' and have learned to acquieſce in the preſent conſtitution of things, upon the juſt principle of the Poet——

Prov. 13, 10.

——*Nunquam* LIBERTAS *gratior extat*
Quam ſub REGE PIO!

P. S. I ſaid would explain POU-ROU in a Poſtſcript. I am now ready to

to perform my promiſe—It is the original name of the executive power in Ægypt: The moſt abſolute of all powers, the *populi rex!* The true remedy of all diſorders of the State—a title very different indeed, from POL-ROO, *populus rex!*—But a King once reigned in that country, who was not content with ſo excellent a title. It was to this power the Iſraelites applyed, when they were deſirous to extricate themſelves from their Ægyptian bondage; *that* Pharaoh was inexorable and unfortunate—But the people miraculouſly obtained their deſire. A Pharaoh of England was not leſs unfortunate, though not equally culpable—*His* people alſo obtained their deſire, but not until they had paſſed through a *Red Sea* of blood to obtain it. What more do they want? They cannot pretend that an Ægyptian bondage is impoſed on them. They are not in ſubjection to taſk-maſters, or an inexorable Pharaoh—They have already had

their

their REVOLUTION and REFORMATION. If they have yet any further request to make, let them dutifully approach the Throne of their native and hereditary Prince, their magnanimous ROU-ROU! in full confidence, that their just and reasonable petitions will not be withheld from them. 'By his Coronation Oath,' (says the great Lord Somers), 'the King binds himself to 'preserve the constitution'—How inconsistent is this oath if he does not possess the power to enforce it!

Treatise of Rights, &c.

FINIS.

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